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UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

Michael Angelo Morales,	}	DEATH PENALTY CASE
Petitioner,		Case No. _____
v.		Petition for Writ of Habeas Corpus by A Prisoner in State Custody
Steven Ornoski, Warden, San Quentin San Quentin State Prison,		EXECUTION IMMINENT: February 21, 2006 at 12:01 a.m.
Respondent	}	

**EXHIBITS IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS
BY A PRISONER IN STATE CUSTODY**

VOLUME II

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Petition for Writ of Habeas Corpus by A Prisoner in State Custody**

Volume II

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Exhibit 21

Declaration of Ruben Serna

DECLARATION OF RUBEN SERNA

I, RUBEN SERNA, declare:

1. *RS* I was incarcerated at the San Joaquin County jail at various times during 1980, 1981, and 1982. In my experience, it was common practice at that jail for guards to attempt to get inmates to inform on other inmates. Inmates who agreed to act as informants would be planted next to or near the cell of the inmate or inmates they were told to inform on. Once the informants got the information they were supposed to get, or could pretend that they had gotten information, they would be given whatever reward they had been promised. I was once personally approached by three guards and told I could be out of jail in a matter of days if I would agree to obtain incriminating statements from a fellow inmate. I declined.

RS 2. It was also common practice for informants to pretend to have gotten confessions even when they really hadn't. Inmates acting as informants could often make up incriminating statements supposedly made by another inmate because it was very easy to get information about other inmates' cases, especially the high profile cases. Several of the inmates had subscriptions to various newspapers, including *The Stockton Record*. The newspapers were passed from inmate to inmate, and inmates gossiped about other inmates' cases. Nothing was a secret, it took about two hours for news to travel from one side of the jail to the other.

RS 3. During 1980, I was one of the trustees at the jail. Being a trustee meant that you were given special privileges and responsibilities. The trustees were allowed to wander through almost any part of the jail, except for protective custody. The television set in the

area where the trustees were housed was on twenty-four hours a day. When trustees were not doing chores or talking to the other inmates, they were watching television. Movies and the news were all that we watched on the television. Newspapers were often kept in the trustee area of the jail. Because of this, the trustees often had a lot of information about other inmates' cases.

RS 4. I learned all about Mike Morales' case at the jail. Although I knew Mike and we got along, he had a reputation for being very tight-lipped about his case and he never said anything to me about it. But because of the nature of the case, everyone knew and talked about it, and it was constantly in *The Stockton Record*. His cousin was also at the jail, on the medical side. I read in the paper and heard from the other inmates that Mike's cousin was a homosexual and wanted to kill his boyfriend's girlfriend. I also read and heard exactly how Mike and his cousin supposedly killed the girlfriend. Their case was probably the most high-profile case in the county jail.

RS 5. During the time Mike's case was getting all this publicity, I was celled with Bruce Samuelson, who was another one of the trustees. Samuelson watched television constantly, and there was no way he could have missed the reports on Mike's case. I remember Samuelson well because he was a very irritating person. When I first met him, I thought he was a nice guy. He played chess, worked out, and watched a lot of television. When he was not interested in the news program or the movie on the television, however, he spoke non-stop with authority about every topic imaginable. He constantly tried to impress me with how intelligent he was. He never shut his mouth and was a very difficult person to get away from.

RS 6. Samuleson always tried to get favors from the guards by telling on other inmates. He tried to find out who was smoking dope, who was after who, and anything else he could find out, and when he did, he always went to the guards with the information.

RS 7. I had been released from the jail by the time Mike supposedly confessed to Samuelson, but I have reviewed a copy of Samuelson's testimony at Mike's trial and have ^{RS}initialed the copy of it attached to the end of this declaration. Everything Samuelson testified that Mike supposedly told him about his case, I knew from watching television and reading the papers, and from gossip about Mike's case within the jail during the time that Samuelson was a trustee with me.

RS 8. I do not believe that Mike ever talked to anyone about his case, because of the way he was, and especially not to Samuelson because it must have been so obvious that he had been planted in "the Hole" to snitch. Only violent inmates and inmates with known gang affiliations were housed in the Hole. Samuelson was never a gang member and had never committed a violent offense. It is so suspicious that Samuelson, a former trustee, would have been placed in "the Hole" with Mike that it must have been obvious to everyone in the jail that that he was there to snitch.

I declare under the penalty of perjury that the foregoing is true and correct and was executed May 19, 1994 in Vacaville.

Ruben Serna
RUBEN SERNA

RS

2330

1 A. Yes, sir, they do.

2 Q. Thank you.

3 MR. GARBER: Nothing further.

4 THE COURT: Recross?

5 MR. HOLMES: No.

6 THE COURT: May the Court excuse the witness?

7 MR. GARBER: No objection.

8 THE COURT: Mr. Holmes?

9 MR. HOLMES: No objection.

10 THE COURT: All right. Thank you, sir. You are excused.

11 MR. GARBER: Bruce Samuelson.

12 THE CLERK: Step forward, sir. That's fine, sir. Right
13 there.

14 Would you raise your right hand?

15

16 BRUCE ALLEN SAMUELSON,

17 having been called as a witness on behalf of the People, was
18 sworn and testified as follows:

19

20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Would you be seated, please, in the witness
22 stand and state your name?

23 THE WITNESS: Bruise Allen Samuelson.

24 THE CLERK: Spell your last name.

25 THE WITNESS: S-a-m-u-e-l-s-o-n.

26

27 DIRECT EXAMINATION

28

RS

1 BY MR. GARBER:

2 Q. How old are you?

3 A. 22 years.

4 MR. HOLMES: Sorry. Didn't hear the answer.

5 THE WITNESS: 22 years of age.

6 BY MR. GARBER:

7 Q. Do you know Mike Morales?

8 A. Yes, sir, I do.

9 Q. When did you first meet him?

10 A. Approximately March or April of 1982.

11 Q. Where was it that you met him?

12 A. In the maximum security section of San Joaquin

13 County jail.

14 Q. What were you doing in the county jail at that

15 time?

16 A. Serving a one year sentence on a burglary

17 conviction.

18 Q. Was that a felony or misdemeanor?

19 A. Felony.

20 Q. And had you been convicted of anything else at that

21 time?

22 A. No, sir.

23 Q. Okay. So it was one count of burglary, a felony?

24 A. Actually it was two on the same complaint.

25 Q. Okay. Two counts of burglary, a felony?

26 A. Yes, sir.

27 Q. Is that first or second degree?

28 A. Second degree.

1 Q. And how was it that you came to meet Mr. Morales?

2 A. I was -- I had certain privileges as an officer's
3 cook to go down into this maximum security section to take items
4 that were issued out by the jail down to certain inmates and I
5 happened to have contact with another inmate that wanted to
6 deliver some pens and envelopes down to Mr. Morales for drawing
7 to have some type of art work done on them.

8 Q. So did you do anything along those lines?

9 A. I delivered it to him. I delivered the items to
10 him.

11 Q. How often would you do that?

12 A. It happened twice. About the third week I was the
13 officer's cook and about the final week I was there before I
14 transferred to the honor farm.

15 Q. When were you released from the jail at that time?

16 A. June 2nd, 1982.

17 Q. And did you get arrested again sometime after that?

18 A. Yes, sir. On November 3rd, 1982 in State of
19 Arizona.

20 Q. Was that on a California charge?

21 A. Yes. Possession of stolen -- of a stolen vehicle.

22 Q. And were you then brought back to Stockton?

23 A. Yes. On --

24 Q. What were you charged with?

25 A. One count of vehicle theft, two counts of receiving
26 stolen property and three counts of forgery.

27 Q. Are those charges still pending against you?

28 A. All but one of the forgeries.

RS

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1 Q. So you are charged with two forgeries, auto theft
2 and --
3 A. Two counts of receiving.
4 Q. -- receiving stolen property?
5 A. Yes, sir.
6 Q. Okay. Have you been in custody since then?
7 A. Yes.
8 Q. Are you in custody today?
9 A. Yes.
10 Q. When did you get back to Stockton?
11 A. November 10th, 1982.
12 Q. Where did they put you in the jail?
13 A. In protective custody down in the maximum security
14 section in cell block eight.
15 Q. How long did you stay in that area?
16 A. Approximately 30 days.
17 Q. What was the cell you were first placed into?
18 A. Cell 14.
19 Q. How long did you stay in cell 14?
20 A. Approximately three hours.
21 Q. Why was it that you were moved out of it?
22 A. I had a toilet and sink that were non-useable.
23 Q. What cell did they put you in after that?
24 A. Cell 12.
25 Q. And was there anyone that you knew near cell 12?
26 A. Across from me at a slight angle was Mr. Morales.
27 Q. Do you see Mr. Morales in court?
28 A. Yes, sir.

1 Q. Would you point at him, please?

2 A. He is sitting right over here next to counsel.

3 MR. GARBET: Could the record reflect he has identified
4 the defendant?

5 THE COURT: Yes.

6 BY MR. GARBET:

7 Q. How far was Mr. Morales from you at that time?

8 A. The distance between the bars was approximately
9 about four and a half feet.

10 Q. Did you have a conversation with him when you
11 arrived at that time?

12 A. A brief statement.

13 Q. What was the nature of that?

14 A. A greeting of hi or hello and from the response
15 from him once I was put in my cell, the original cell, was "What
16 in the heck are you doing back in jail?"

17 Q. Did you have some further conversation with him?

18 A. Yes. Regarding the non-functioning toilet and sink
19 and --

20 Q. That was on first cell?

21 A. Yes.

22 Q. Okay. What about when you got into cell 12?

23 A. Well, on about November 11th, the following day, we
24 had occasion to discuss some technicalities about his case after
25 I returned from court.

26 Q. Did you have your own attorney in court at that
27 time?

28 A. No, sir. I was representing myself pro per.

1 Q. You were your own attorney?

2 A. Yes, sir.

3 Q. So what was the discussion that Mr. Morales had
4 with you at that time?

5 A. I -- it was on -- regarding possible defense mot --
6 actions on behalf of the defense to exclude certain witnesses by
7 a statement, by actions and by time approximations.

8 Q. Did he tell you anything about his case at that
9 time?

10 A. Yes, he did.

11 Q. What did he tell you?

12 A. In regards to the case itself, it was -- first
13 thing that he told me was about the phone calls that were made
14 prior to the homicide that occurred.

15 Q. What did he tell you about them?

16 A. That his cousin, Ricky Ortega, had called him
17 and -- from the restaurant --

18 MR. HOLMES: I will object to the statements as hearsay
19 and request that some foundation be made in terms of the
20 competency of this witness to testify. I think there is an
21 obligation on the Court to determine the initial credibility of
22 this witness in this sort of situation prior to his testimony.

23 MR. GARNER: Your Honor, I think this is admissible as
24 admissions and confessions against a criminal defendant. I
25 don't think there is any basis to exclude the witness.

26 THE COURT: I really don't understand the objection as to
27 competency.

28 MR. HOLMES: I think that the Court, under these sort of

1 circumstances where you are talking about an individual in
2 custody and testifying under these circumstances for -- for
3 leniency or favors, the Court should make a preliminary fact
4 finding prior to permitting the witness to testify.

5 THE COURT: It's not my understanding of the law. Both
6 objections are overruled. Court will receive the statements
7 under 1220 of the Evidence Code. You may cross examine on those
8 matters, though.

9 BY MR. GABER:

10 Q. What did he say about this phone conversation?

11 A. The first phone call he stated came from the place
12 of employment by his cousin, a restaurant, and it was to the
13 context that they were going to meet with this -- with the
14 victim and then he said approximately a half hour later he
15 received another phone call, this time from the Weberstown Mall
16 area that he -- that the cousin had picked up the girl and was
17 enroute to the house.

18 Q. What did he say happened then?

19 A. That upon arrival to the house one of the female
20 attendants in the house was asked to go to the store to purchase
21 some liquor or other article from the store, and at that time he
22 had prepared or had gone out in preparation with a belt that he
23 was wearing, a small thin belt, a kitchen knife and a hammer
24 and --

25 Q. Did he tell you what happened after that?

26 A. Yes. They took off in a car northbound towards
27 Lodi, and instead of going through a -- on the freeway they went
28 through town and waited until they got on the outskirts where

RS

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1 they were out of earshot or hearing distance from anybody else.

2 Q. Did he tell you why that was done?

3 A. To avoid detection from any outside source.

4 Q. Did he say what happened then?

5 A. Yes. As they were driving he attempted to strangle
6 her with this belt.

7 Q. Did he say what happened?

8 A. The belt broke.

9 Q. Did he say what happened after that?

10 A. She fell forward unconscious and he attempted -- or
11 he grabbed her hair and pulled it back and her whole body and
12 started beating her over the head in the rear of her head with a
13 hammer.

14 Q. Did he say what she was doing at that time?

15 A. She was -- well, when he first attempted to
16 strangle her she was trying to ward off the belt in attempts to
17 grab it and pull it away and was also making noises, screaming
18 for help. And then upon the passing out or the unconsciousness,
19 when he started beating her with the hammer, she was already
20 unconscious so there was nothing that she could really say.

21

22

- -t- -

1 Q. Did he say what he did along the lines of hitting
2 her with the hammer?

3 A. He could not remember the amount of times, but he
4 said it was several blows, severe blows to the back of the head.

5 Q. What did he say then?

6 A. It had been approximately 15 minutes from the time
7 he left town to the completion of the blows, the last blow, and
8 he told his cousin to pull the car over and stop.

9 Q. What happened then?

10 A. He took the body out, dragged it face down across
11 the pavement, pulling by the feet and drug her to a field where
12 he proceeded to rape her. And he had been -- his exact words
13 were -- the thought that was in his mind --

14 MR. HOLMES: I'll object to the narrative form of the
15 answer here.

16 THE COURT: No. The objection is overruled.

17 You may continue your answer.

18 BY MR. GARNER:

19 Q. What did he say?

20 A. The thought that had gone through his mind was
21 ~~the thought that he was~~ wasting a good piece of -- if it please the
22 Court -- a good piece of ass and that he would -- there was --
23 to the effect that he was going to bone it.

24 Q. Did he tell you what happened then?

25 A. Yes. He fulfilled the raping of her, of the girl,
26 and said that he stabbed her about four times and --

27 Q. Did he tell you why he did that?

28 A. Uh -- he wasn't -- as far as the stabbing, he

1 was -- the intent was to go out and kill her to begin with, and
2 he wanted to make sure.

3 Q. Did he tell you whether or not she was alive at
4 that point?

5 A. He really didn't know.

6 Q. What did he say happened after he stabbed her?

7 A. He got up, started to walk away and turned around
8 and called her a fucking bitch.

9 Q. What did he do then?

10 A. He met his cousin, who had been driving around
11 keeping point or watch for any persons in the vicinity and --
12 once he reached the car, he through the weapons and the belt
13 into the trunk.

14 Q. What did he say happened after that?

15 A. They drove back into town and reached a -- went
16 back to the original house and, uh -- he went in to hide the
17 belt and to wash off the tools, the hammer and the knife. And
18 they were going to clean the car out.

19 Q. Did he tell you how that was done?

20 A. After they had cleaned the -- or after he had
21 cleaned the weapons off, gone back outside and they used a hose
22

23 Q. What took place then?

24 A. A -- one of the girls that were in the house, one
25 of the occupants -- actually there were two girls in there, one
26 by the name of Raquel and one by the name of Pat -- had been in
27 there.

28 He had dumped the purse on the table, and one of

1 'em went outside with him and questioned why he was using a
2 hose.

3 Q. Did he tell you anything else?

4 A. That he had placed the weapons -- one of the
5 weapons in the refrigerator.

6 Q. Do you recall which weapon that was?

7 A. I believe it was the knife.

8 Q. Did he tell you what happened after that?

9 A. Um -- he went to the store and bought -- I believe
10 it was two packs of cigarettes and a six-pack of beer and some
11 wine with approximately 11 dollars that came out of that purse.

12 Q. Now, when was this that he was telling you about
13 this incident?

14 A. Once he began, that was about the 15th of November
15 and concluded with -- oh, I'd say in approximately two weeks or
16 two-week period.

17 Q. Did he bring up the subject of Raquel and Pat again
18 with you?

19 A. Yes, he did.

20 Q. What was the nature of that conversation?

21 A. To eliminate their physical being in this court.

22 Q. What did he say about that?

23 A. We had read a book called Prescription Murder, and
24 it involved a case down in Texas in 1968 or 1969 where a doctor
25 injected --

26 MR. HOLMES: I'll object to this as hearsay.

27 MR. GABER: This has to do with explaining
28 conversation --

R3

1 THE COURT: The objection is overruled. Please don't
2 respond to objections unless the Court asks for it.

3 THE WITNESS: It involved the case where a doctor
4 injected his first wife with a mixture of human feces that had
5 cultured over a period of time which went undetected upon an
6 autopsy. This was in order to marry another female and which he
7 tried to kill her with an injection of sodium -- I mean procaine
8 hydrochloride.

9 And Mr. Morales asked me if there was any
10 possibility that if I were to get an OR or to bail, if I would
11 take -- if I could assume the same situation with one of the
12 girls, particularly Raquel.

13 BY MR. GARBER:

14 Q. Did he tell you where you could get ahold of
15 Raquel?

16 A. He said her parents lived in Woodbridge,
17 California, and that she was probably there along with a younger
18 sibling and that if she wasn't, then she had relatives strung
19 out from Stockton or Woodbridge down to Los Angeles.

20 Q. Did he tell you how to get ahold of Pat?

21 A. He said that being that -- he complimented my
22 intelligence and said that I would probably be able to find out
23 myself because he didn't know where she was at.

24 Q. Now, in exchange for your agreeing to testify, have
25 you been offered anything from the San Joaquin County District
26 Attorney's office?

27 A. It was stated that they would recommend a one-year
28 county jail sentence with a felony conviction.

1 Q. As opposed to what?

2 A. Going to state prison.

3 Q. Is what you've told us here today, then, the truth?

4 A. Yes, sir.

5 Q. Thank you.

6 MR. HOLMES: Nothing further.

7 THE COURT: You may cross-examine, Mr. Holmes.

8

9 CROSS-EXAMINATION

10

11 BY MR. HOLMES:

12 Q. Mr. Samuelson, you said when all this took place
13 you were in cell what? 12?

14 A. Yes, sir.

15 Q. And Mr. Morales was in cell 10?

16 A. Yes, sir.

17 Q. So you --

18 A. No. Yes -- excuse me. Yes, he was in 10.

19 Q. Okay. So that's not directly across from each
20 other, is it?

21 A. No it's at a -- I'd say probably a 30 to 45-degree
22 angle.

23 Q. Okay.

24 Q. And cell 9 is directly across from cell 10, right?

25 A. No, sir, it isn't. They're both at angles.

26 They're staggered cells.

27 Q. Okay. Three on one side and three on another side?

28 A. Yes, sir, with alternating spaces.

1 Q. Okay. When you're not in jail, you live in
2 Stockton, don't you?

3 A. Oh, I have for the past six years.

4 Q. Okay. So in the early part of 1981, you were
5 living in Stockton; right?

6 A. Yes, sir.

7 Q. When this -- when this murder occurred?

8 A. Yes, I was.

9 Q. Uh-huh. So you -- you saw the publicity in the
10 local papers about it; right?

11 A. No, I didn't. I was not even aware of it until I
12 was incarcerated.

13 Q. That was in -- in when?

14 A. May 28th, 1981.

15 Q. Okay. So all this publicity that occurred that
16 resulted in this change of venue, you never saw any of it, then,
17 huh?

18 A. No, sir.

19 Q. Didn't read anything in the papers?

20 A. No. I don't get a subscription to the paper, and I
21 really don't care to read too many of the newspapers other than
22 the sports section.

23 Q. So you do buy a paper occasionally?

24 A. No. I read what's in a restaurant or wherever I'm
25 visiting.

26 Q. Okay. Do you ever watch television?

27 A. Not very often. The ESPN sports program station
28 and occasionally the World News Tonight.

1 Q. So you -- you've never really -- you never saw
2 anything in the paper or on television about -- about the case,
3 then?

4 A. No. I don't watch the local news, and I don't
5 listen to the radio.

6 Q. Okay. Your first -- after this -- this charge
7 occurred, you were in custody in March, were you not?

8 A. Yes, on a misdemeanor charge of petty theft.

9 Q. Okay. And you did 30 days on that; right?

10 A. Yes. Not on the petty theft. On -- it was a
11 contributing delinquency of a minor.

12 Q. Okay. So you were in jail for 30 days, the same
13 time Mr. Morales was, in March of '81; right?

14 A. I believe he was in jail at that time.

15 Q. And Mr. Ortega was in jail at that time also,
16 wasn't he?

17 A. I believe so. I didn't know either one of them at
18 the time.

19 Q. Okay. About what time in March was that that you
20 did that 30 days?

21 A. It was from March -- I believe it was the 18th till
22 the ~~end~~ of April.

23 Q. Okay. So that was around the time of the
24 preliminary hearing in this case; right?

25 A. I have no idea. I don't know when they held it.

26 Q. There wasn't any talk out at the jail about the
27 case, of course, was there?

28 A. Uh -- the only talk that was around the jail was

1 the fact that Michael Morales and Ricky Ortega were in jail for
2 suspicion of murder.

3 Q. But no details were ever mentioned?

4 A. I didn't engage myself in any conversation
5 regarding that case.

6 Q. You weren't the least bit curious about the case,
7 either, were you?

8 A. I was not familiar with it at all.

9 Q. And you didn't desire to become familiar with it,
10 though, did you?

11 A. No. I don't like to become familiar with too many
12 cases other than my own.

13 Q. Uh-huh. Okay.

14 Did you see any further news stories about the case
15 after the preliminary hearing?

16 A. I never -- no, I didn't.

17 Q. About the testimony at the preliminary hearing or
18 anything like that?

19 A. No, I didn't. As I said earlier, I don't pay any
20 attention -- too much attention to the news.

21 Q. Uh-huh.

22 Now, you -- you were released, then, some -- you
23 mentioned sometime in the middle of April, and then you were
24 arrested back in June --

25 A. May 28th.

26 Q. May 28th. Okay.

27 And you were back in the county jail, right?

28 -- same jail that Mr. Morales or --

- 1 A. Right now or at that time?
- 2 Q. At that time.
- 3 A. Yes, I was.
- 4 Q. Okay. And Mr. Morales was still there and Mr.
- 5 Ortega was still there?
- 6 A. I believe so.
- 7 Q. Okay. Now, you were arrested on four counts of
- 8 burglary at that time; right?
- 9 A. Yes.
- 10 Q. And you didn't post bail --
- 11 A. No.
- 12 Q. -- on that?
- 13 And that was May 28th, you said?
- 14 A. Yes, sir.
- 15 Q. Okay. And on that case, you -- you made a deal --
- 16 made a plea bargain and you pled guilty to two counts of felony
- 17 burglary, and they dismissed two counts of felony burglary;
- 18 right?
- 19 A. Yes, sir.
- 20 Q. Okay. And at that time of the plea bargain, you
- 21 were told that even though they were going to dismiss two counts
- 22 of burglary, the DA was still going to recommend prison with a
- 23 three-year state prison as a maximum; right?
- 24 A. No. The DA was in favor of a recommendation to a
- 25 return to the Youth Authority.
- 26 Q. There was no indication to you that the DA's
- 27 recommendation was a -- a three-year prison sentence, then?
- 28 A. The original recommendation was until we had a

1 formal pronouncement of judgment hearing.

2 Q. Okay. So when you entered the plea, though, there
3 was an indicated judgment of three years in prison; right?

4 A. A three-year suspended sentence and an alternate
5 sentence was the two years to the Youth Authority.

6 Q. No. My question is when you entered the plea,
7 wasn't there an indication to you that the maximum sentence
8 could be three years in the state prison?

9 A. Prescribed by law, yes.

10 Q. Okay. Then the judge, though, after a sentencing
11 hearing, decided to give you a break on the sentence owed you to
12 the Youth Authority, didn't he?

13 A. Yes, upon the recommendation of my parole officer.

14 Q. Okay. Your Youth Authority parole officer?

15 A. Yes, sir.

16 Q. Okay. So that a -- that occurred when?

17 A. Uh -- I don't remember the date of the P and J
18 hearing, but it was in the month of October.

19 Q. Okay. So you went to the Youth Authority, but the
20 Youth Authority rejected you; right?

21 A. No. A recommendation from the Court to receive me
22 from San Joaquin County back to the Youth Authority on a
23 violation and/or a new commitment was sent up there, and they
24 denied me because of lack of bed space and. Then further
25 revelation came was because I was not amenable to their
26 treatment.

27 Q. Okay. So the Youth Authority rejected you?

28 A. Yes.

1 Q. Sent you back to court then?

2 A. Yes.

3 Q. Okay. And at that point, the -- the judge, after
4 sentencing hearing, gave you another break and decided not to
5 send you to state prison; right?

6 A. Yes, sir.

7 Q. Okay. And what he did do, though, was give you a
8 year in the county jail; right?

9 A. Yes, with the waiving of my time served.

10 Q. Okay. Normally when a person does a year in the
11 county jail, they get credit for all the time they're in custody
12 from the date they're arrested up to the date they're sentenced;
13 right?

14 A. Yes, sir.

15 Q. And you were arrested, you said, on May 28th, and
16 the judge sentenced you to a year in jail October 1st; right?

17 A. I believe it was October 1st.

18 Q. So you were given a year in the county jail and not
19 sentenced to prison, on the condition, though, that you give up
20 your right to that five months of time that you normally would
21 have been entitled to; right?

22 A. Yes, sir.

23 Q. So you did a year from October 1st on, then; right?

24 A. Yes.

25 Q. So you were -- you were in jail, then, to -- from
26 May 28th till -- you say you were at least --

27 A. June 2nd of 1982.

28 Q. June 2nd, '82.

1 And Mr. Morales was still in the jail; right?

2 A. Yes, sir.

3 Q. Mr. Ortega was still in the jail; right?

4 A. Yes.

5 Q. Okay. And when you were finally released from
6 jail, you had certain conditions of probation; right?

7 A. Yes, sir.

8 Q. And one of those conditions was that -- that you
9 report to your probation officer every month; right?

10 A. Yes, or some type of supplemental report.

11 Q. Uh-huh. And one of the conditions was that, of
12 course, you obey all laws; right?

13 A. Yes.

14 Q. And another condition was that you pay back the
15 restitution; right?

16 A. \$1,178.16.

17 Q. Okay. So those were all things you still had to do
18 or you could be sent back to prison if you violated that.

19 You could be sent to prison if you violated that
20 probation; right?

21 A. Or back to the jail.

22 Q. Okay. Now, in addition to getting arrested on some
23 new charges, you also have a probation violation filed against
24 you, do you not?

25 A. Yes. I was made aware of that about two months
26 after my arrest.

27 Q. Okay. That -- there was a probation hold placed on
28 you in November --

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1 A. Yes --
2 Q. -- of '82. Right?
3 A. As far as I know, it was. I wasn't aware at the
4 time.
5 Q. Okay. A probation hold means that you can't bail
6 out; right?
7 A. For one year.
8 Q. Okay. And so the probation officer is alleging
9 that you didn't report for two months and that you didn't pay
10 anything on the restitution; right?
11 A. No.
12 Q. That's not part of the -- the probation violation.
13 A. No. The probation violation is that I broke a law.
14 Q. Okay. You mean these new charges that you've
15 got --
16 A. Yes, sir.
17 Q. -- currently pending?
18 A. That was added to a report as far as not paying the
19 restitution.
20 Q. Well, are you saying that that's an additional
21 violation of your probation?
22 A. No. She just -- it was a supplemental report.
23 Q. Okay. Well, are you saying that the only basis for
24 your probation being violated, then, to your knowledge, is that
25 you violated the law again?
26 A. Yes.
27 Q. Okay. So you're saying that one of the bases for
28 your probation being violated is not that you didn't report for

1 two months and not that you haven't paid anything on the
2 restitution?

3 A. There was no period in my probation -- or the time
4 that I was out on probation that I stayed out for two months
5 without reporting to her. No reason to violate me there.

6 I received a letter for not reporting within
7 immediately 15 days upon my release, and she told me a further
8 disobedience in that manner would result in violation.

9 Q. Doesn't your probation violation papers say you
10 didn't report in July and August?

11 A. No. It says I didn't report in July. Actually, I
12 believe it says that I was late in reporting in July.

13 Q. So you're facing -- or you could have faced at that
14 time possible sentence to prison for violating that probation;
15 right?

16 A. Yes, three years.

17 Q. And then you also, on these felony charges that you
18 picked up just five months after you were released, you faced
19 prison on those charges, too; right?

20 A. Yes, sir.

21 Q. Okay. The auto theft carries prison sentences of
22 16 months, two years or three years in prison; right?

23 A. Yes.

24 Q. And the receiving stolen property charges, they
25 each carry sentences of 16 months, two years or three years;
26 right?

27 A. Yes.

28 Q. And the forgery counts, they carry sentences of 16

1 months, two years or three years; right?

2 A. Yes, but not in consecutive terms.

3 Q. You're saying that none of those charges can be run
4 consecutively?

5 A. Well, they can, but I cannot receive -- I could
6 face -- I added it up somewhere around ten years plus the three
7 years violation.

8 Q. So all that together, your probation violation plus
9 these new charges, you say you can -- the maximum would be about
10 ten years; right?

11 A. 13 all together.

12 Q. Okay. 13 years, then.

13 So you've -- you figured with the fact that you
14 were given a break the last time by not being sentenced to
15 prison and being given the year in county jail and the fact that
16 you committed these -- these new charges so recently after being
17 released from jail and the fact that you were in violation of
18 your probation, you felt, did you not, Mr. Samuelson, that you
19 were certainly headed for prison at that point?

20 A. I was not sure. I felt that I still had a 50 -- 50
21 percent chance of being acquitted in court on the view of the
22 evidence.

23 Q. You figured, though, that you were going to
24 represent yourself, though, on these new charges; right?

25 A. Yes, sir.

26 Q. You thought you were -- you'd be clever enough to
27 do that without the necessity of having an attorney?

28 A. I would have an advisor, court-appointed advisor.

RS

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1 Q. The Court advised you you could have an attorney
2 represent you; right?

3 A. Yes.

4 Q. -- if you wanted to.

5 But you refused that; right?

6 A. Yes, I did.

7 Q. And you went through the municipal court
8 proceedings without an attorney?

9 A. Yes. I waived my preliminary hearing.

10 Q. Okay. And it was only in December of '82, the end
11 of December, that the superior court appointed you an attorney;
12 right?

13 A. Yes, December 28th.

14 Q. Okay. Now, December 28th, that's when the Court
15 appointed Mr. Schick to represent you; right?

16 A. Yes, on the order to show cause for violation of
17 probation.

18 Q. Okay. But it was prior to that time, though, that
19 you had had some discussions with Mr. Garber; right?

20 A. About two weeks.

21 Q. Okay. So while you were still representing
22 yourself, you were negotiating with the DA's office; right?

23 A. No. I had on one occasion made an attempt at
24 negotiation.

25 Q. Okay. Well, wasn't it December 6th that you
26 contacted Mr. Garber advising him you had some information about
27 this case?

28 A. Yes.

R3

1 Q. Okay. And then December 9th, Sergeant Sanford came
2 out and talked to you. And then shortly thereafter, Mr. Garber
3 came out and talked to you; right?

4 A. On that occasion is when we were discussing
5 negotiation as to the prison sentence or the jail sentence in
6 lieu of the prison sentence.

7 Q. Okay. Now, in the past couple years, you spent
8 quite a bit of time out there at the county jail; right?

9 A. From which year are you referring to?

10 Q. Oh, since '81. You've spent quite a bit of time
11 out there; right?

12 A. Yes. .

13 Q. So you're familiar with the fact that -- that
14 people charged with serious crimes, murder, especially death
15 penalty cases, very often get copies of the police reports in
16 their cases; right?

17 A. Anybody charged with a crime has availability to
18 those reports --

19 Q. Okay.

20 A. -- including myself or others that are charged with
21 lesser crimes.

22 Q. Uh-huh. And not only the crime reports, which are
23 the reports that the police prepare regarding their
24 investigation of witnesses and crime scene and that sort of
25 thing, but inmates also get copies of preliminary hearing
26 transcripts?

27 A. Upon request.

28 Q. Okay. And isn't it common, especially when a

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1 person is facing a death penalty case, that they — that they
2 get copies of those things, that they ask their attorney to make
3 them a copy?

4 A. It's my opinion that they do. I don't know too
5 many people that have been involved in that circumstance before.

6 Q. Okay. So you're aware that Mr. Morales had all
7 these transcripts and reports, right?

8 A. I saw the piles of them in his room, yes.

9 Q. Okay.

10 A. He made mention of 'em.

11 Q. And you're aware that Mr. Ortega also had those
12 same sort of reports, right?

13 A. No, I'm not.

14 Q. Okay.

15 A. I had very little contact with Mr. Ortega.

16 Q. You had some contact with him, right?

17 A. As a trusty, yes.

18 Q. Okay. As a trusty, that means you had, what, sort
19 of free roam of the jail?

20 A. Personally, yes, I did.

21 Q. You had a little more freedom than the other
22 people, then?

23 A. Than most of the trusties, too.

24 Q. Okay. So you had occasion to talk to Mr. Ortega
25 while you've been out at the jail at least one time or another,
26 right?

27 A. Regarding the case, no.

28 Q. You never talked to him about the case, right?

1 A. The -- the only thing he ever told me about that is
2 that he was in jail for murder.

3 Q. Never said anything else to you, right?

4 A. No detail, no.

5 Q. And you never made any inquiry of him either;
6 right?

7 A. No, I didn't.

8 Q. Never even connected Mr. Ortega with Mr. Morales;
9 right?

10 A. I knew at that time that they were both in there
11 together and that they were related.

12 Q. Same charges; right?

13 A. Yes.

14 Q. And Mike had copies of all this stuff in his -- in
15 his cell; right?

16 A. Yes, I believe he did.

17 Q. And you saw some of that material, did you not?

18 A. I saw one page.

19 Q. One page?

20 A. Yes. In my own hands, I saw one page.

21 Q. Okay. You saw more than one page of material,
22 the [REDACTED] right?

23 A. Yes, of what he showed me from outside of his bars.

24 Q. Okay. You -- you looked at that -- some of those
25 reports, then; right?

26 A. Looked at 'em? I would not say I looked at 'em. I
27 briefed a couple sentences where I could not understand what he
28 was talking about.

1 Q. You briefed a couple of sentences?

2 A. Yes. He pointed out a couple of sentences in the
3 criminalist's report. I believe the autopsy as to questions in
4 legality of those statements and whether they would hold any
5 grounds in a courtroom.

6 Q. You mean the description of the injuries, the
7 number of wounds, the type of wounds, the areas, that sort of
8 thing?

9 A. No. Actually it was more for the semen report of
10 presence -- or the blood -- blood typing caused different
11 questions as to whether or not they could counteract another
12 witness's questions with defense counsel's own examination.

13 Q. So you saw portions of -- of the criminalist's
14 testimony at the preliminary hearing, then; right?

15 A. I'm not sure whether or not it was from the
16 preliminary hearing or whether it was his own report. I didn't
17 see a headline on it.

18 Q. Okay. And you saw other reports, then, in
19 conjunction with the case. You mentioned autopsy, and he showed
20 you some other stuff; right?

21 A. A few sentences.

22 Q. Just a few sentences?

23 A. Off of certain -- a few -- a couple pages.

24 Q. You didn't look at -- at some of the police reports
25 themselves?

26 A. No, I never did see a police report.

27 Q. You didn't look at some of the preliminary hearing
28 transcripts yourself?

1 A. Just one page in regards to statements as to
2 somebody seeing something in the house and somebody else saying
3 that it wasn't there.

4 Q. Uh-huh.

5 You knew Greg Winchell, didn't you?

6 A. I knew him? No. I saw him one time during his
7 stay --

8 MR. GARBER: Your Honor, I'm going to object to this as
9 being irrelevant.

10 MR. HOLMES: It's certainly not irrelevant.

11 THE COURT: Do you intend to make an offer of proof on
12 it?

13 MR. GARBER: Can we approach the bench?

14

15 (The following proceedings were held at the
16 bench, outside the hearing of the jury.)

17

18 MR. HOLMES: Greg Winchell --

19 MR. GARBER: Shhh.

20 MR. HOLMES: Greg Winchell is -- is the --

21 MR. GARBER: Shhh.

22 MR. HOLMES: -- is, I believe, a brother --

23 MR. GARBER: Not so loud.

24 MR. HOLMES: -- of --

25 MR. GARBER: They can hear everything he's saying.

26 THE COURT: I don't think they can hear it. Go ahead.

27 MR. HOLMES: -- of Terri.

28 THE COURT: Uh-huh.

1 MR. HOLMES: He committed a robbery and was in the jail
2 and apparently made some statements about wanting to -- to get
3 the responsables.

4 THE COURT: About what?

5 MR. HOLMES: About wanting to get the responsables --

6 THE COURT: Okay.

7 MR. HOLMES: -- who killed his sister.

8 THE COURT: Uh-huh.

9 MR. HOLMES: I think it's certainly permissible to
10 explore since Greg Winchell being Terri's brother would
11 certainly know about the case, have information about the case
12 and could be a source of information for this witness.

13 THE COURT: I think I agree. Any motive or interest he
14 would have to testify the way he's doing, I think, is relevant.

15 MR. GARBBER: Well, it cuts both ways. What happened is
16 Greg Winchell's in prison, the victim's brother's in prison.

17 What he did was he told the judge he committed a
18 robbery so he could go to prison so he could kill the people
19 that killed his sister. It's inflammatory in that regard.

20 I mean it -- I think it's sort of 352 area, and I
21 really think it's pretty collateral.

22 In other words, I think that the whole purpose of
23 it is to bring out that the girl's brother is in prison and
24 therefore her character is a little less than ideal because --

25 MR. HOLMES: That isn't irrelevant as to her character --

26 THE COURT: Hold on. I don't think it's necessary for
27 the jury to know that Winchell is in prison.

28 MR. GARBBER: If they know he committed robbery, they'll

1 figure that --

2 THE COURT: I'm not sure that's necessary either. Just
3 the fact he was in jail and they had an opportunity to talk,
4 that's really all that's relevant about interest or motive of
5 this witness to testify the way he does, not specifically the
6 charges that Winchell was in jail then or where he is now.

7 MR. HOLMES: Then you would limit my questioning to
8 just -- to he was in jail and that -- and just what information
9 he may have obtained from Winchell?

10 THE COURT: Yes.

11 MR. HOLMES: Is that your ruling?

12 THE COURT: Yes.

13 MR. GARBER: Can we instruct the witness not to mention
14 that, then, the other area?

15 THE COURT: I don't see why he would if he's not asked.

16 MR. GARBER: Well, I think he'll blurt it out. The Court
17 can see he blurts a lot of things out.

18 THE COURT: He has blurted some things out.

19 Okay. Do you want to go and talk to him?

20 MR. HOLMES: I don't want to talk to him.

21 MR. GARBER: I think it would look bad.

22 THE COURT: I think it would, too. Make sure --

23 MR. HOLMES: It's not my witness. It's his witness.

24 THE COURT: Well, I'm not going to order you to go over
25 there. But if I were you, I'd want to see what he says. Okay.

26

27 (The following proceedings were held in open
28 court in the presence and hearing of the jury.)

RS

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1
2 THE COURT: Would the reporter please read back the
3 pending question.
4

5 (Record read.)
6

7 -- s --

1 THE COURT: All right. Go ahead, Mr. Holmes.

2 BY MR. HOLMES:

3 Q. You saw Greg Winchell out at the county jail,
4 right?

5 A. Yes, I did.

6 Q. Okay. He was in custody at the same time you were,
7 right?

8 A. Yes. After I was arrested he was arrested.

9 Q. Okay. And about what time was this?

10 A. About the time I got sentenced.

11 Q. Which time?

12 A. The final sentence to the county jail would have
13 been about October 1st.

14 Q. Of?

15 A. '80 -- or, no. Excuse me. November 4th of 1982.

16 Q. Okay. And you knew he was the brother of Terri
17 Winchell, right?

18 A. I had heard rumors to that effect.

19 Q. Okay. And you got information from him, did you
20 not, regarding some of the details about the case involving --

21 A. Information? I never talked to him.

22 Q. Are you saying you never talked to him?

23 A. No.

24 Q. You are saying that you were just aware he was
25 there, is that it?

26 A. Yes.

27 Q. Never got any details from him about the case?

28 A. No, I didn't. I was not even housed in the same

1 area he was at.

2 Q. Now, you have -- you are in -- or back in July of
3 '81 you were in protective custody, were you not?

4 A. Yes, I was.

5 Q. Okay. Protective custody is -- is what?

6 A. It's supposedly the utmost secure situation you can
7 have in a jail.

8 Q. Okay. Single man cell, right?

9 You are not --

10 A. Normally.

11 Q. -- sharing it with anybody else?

12 A. They -- San Joaquin County jail does have three
13 cells now full of people that are on protective custody for
14 various reasons. The reason I was on there, I was kept in a
15 single cell.

16 Q. Okay. And you were in protective custody in July
17 of '81 on those other charges, right?

18 A. Yes, sir.

19 Q. And how long were you in protective custody?

20 A. Until my transfer to the honor farm November 11th,
21 1982.

22 Q. Okay. So you were -- so you were in there about
23 three to four months, right?

24 A. Probably a bit longer than that.

25 Q. Okay. And the reason you were in protective
26 custody is because people thought you were a snitch, right?

27 A. To be more specific, they thought I was a police
28 officer.

R3

1 Q. Okay.

2 A. Because of my demeanor and my personal appearance.

3 Q. Okay. They thought you were a plant, then, right?

4 A. No. Actually they thought I was a crooked cop as
5 it was put.

6 Q. Okay. So they thought you were there to elicit
7 information from people and then give it to the prosecution,
8 right?

9 A. There were some people that thought so. There were
10 others that thought just on the assumption that I was a cop at
11 one time or another and that I had volunteered out at juvenile
12 hall that they were under the general assumption that I was
13 there to elicit information.

14 Q. You say you were a police officer at one time?

15 A. No. That was the rumor going around the jail.

16 Q. Oh. Okay.

17 A. Because of the fact that I had volunteered out at
18 the juvenile hall.

19 Q. Okay. So for different reasons people -- people
20 thought you were an informant, right?

21 A. Yes. There was one other reason behind that, too.
22 My major in college is administration of justice and there were
23 a couple people that were attending Delta College that were in
24 that jail, too, and knew my major.

25 Q. Okay. Some people -- people who are classified as
26 informants or snitches run some danger in county jails of -- of
27 being attacked or harmed, don't they?

28 A. It all depends on their physical well-being.

1 Q. Okay. Well, to insure your physical well-being
2 you -- you can get placed in protective custody, right?

3 A. At your request or at the request of the officers
4 in charge.

5 Q. Okay. And isn't it fair to say that informants and
6 snitches are not the most well liked people out at the county
7 jail among the regular inmate population?

8 A. Generally speaking, yes. Depending on the position
9 you are in.

10 Q. Okay. When you are in protective custody you don't
11 mingle as much, then, with the general population, right?

12 A. You don't mingle at all with the general
13 population.

14 Q. Okay. And your freedom's a little more restricted
15 when you are in protective custody?

16 A. When you are in jail your freedom's restricted
17 extremely so there is really not that much difference other than
18 you don't communicate with probably 125 other people at various
19 times.

20 Q. Okay. So there is -- there is a little bit more of
21 a restriction when you are in protective custody, then?

22 A. A small amount.

23 Q. Okay. And that's why when -- where you were
24 arrested on these new charges, though, you again went into
25 protective custody, right?

26 A. At the request of the jail commander.

27 Q. Okay. Because you had what they called a snitch
28 jacket?

23
1 A. That. And, again, on the choice of my career,
2 although nobody knew why I was in -- taking administration of
3 justice as a major. They all assumed that it was for law
4 enforcement, which it wasn't.

5 Q. So you got placed back in protective custody when
6 you picked up these five or six new felonies, right?

7 A. Upon my return to California, yes.

8 Q. Okay. And -- and because of the fact that you are
9 classified a snitch you have even been transferred out of the
10 county jail, have you not?

11 A. Due to this case.

12 Q. Okay. Certainly by offering information to the
13 prosecution you would be considered by people out of the jail as
14 a -- as a snitch, right?

15 A. The majority, yes.

16 Q. Okay. And snitch jacket is a label that's given to
17 people like that, right?

18 A. Yes.

19 Q. Okay. And sometimes it's rightfully a label that's
20 applied and sometimes it's wrongfully applied to individuals,
21 right?

22 A. Depending on the situation in which they are
23 testifying or giving information on.

24 Q. Okay. Certainly going to prison with a snitch
25 jacket would be worse than going to prison without one, would it
26 not?

27 A. Myself I don't believe so because when you are in
28 protective custody in prison it's a whole different

1 circumstance -- world than being out in the general population.

2 Q. It's still dangerous, though, to go to a prison
3 being known as a snitch as well as being in the county jail
4 known as a snitch, is it not?

5 A. Dangerous? No. Because you are not with the
6 general population.

7 Q. So there is not too much danger being in prison and
8 being known as a snitch as long as you are in protective
9 custody?

10 A. That's right. You are in segregated housing.

11 Q. Okay. Now, you certainly wanted to do everything
12 possible to avoid going to prison, though, either with or
13 without a snitch jacket, didn't you?

14 A. I was going to go with one anyway from the prior
15 time I was incarcerated, but, yes, I was interested in trying to
16 avoid going to prison.

17 Q. Okay. And you even wrote a letter to Mr. Garber
18 regarding your -- your information --

19 A. Yes, I did.

20 Q. -- did you not?

21 Okay. And in that information -- in that letter to
22 Mr. Garber --

23 MR. HOLMES: I wonder if we -- do you have the original?

24 MR. HOLMES: It's not right here, but I will waive best
25 evidence.

26 BY MR. HOLMES:

27 Q. In your letter to Mr. Garber you indicated that you
28 could guarantee an murder conviction, did you not?

RS

1 A. Yes, I did.

2 Q. And didn't you, in your letter, guarantee that you
3 could get a conviction on special circumstances?

4 A. Yes, I did.

5 Q. And in that letter did you not indicate that in
6 exchange for these sort of guarantees you wanted some things for
7 yourself?

8 A. Yes, I did.

9 Q. Okay. And one of those things was placement in
10 victim witness program, right?

11 A. Not so much victim witness. The protective program
12 they had -- that they used to have.

13 Q. Okay. Victim witness program is where they pay you
14 money and relocate you and help you find a job and -- and pay
15 expenses, that sort of thing, right?

16 A. By that name I didn't know it at that time, but now
17 I do, yes.

18 Q. Okay.

19 A. You just made me aware of it.

20 Q. So that was -- that was one of the things on your
21 list, that you wanted to be in the victim witness program,
22 right?

23 A. Essentially, yes.

24 Q. Okay. You also wanted to be released on your own
25 recognizance until the case went to trial, right?

26 A. Yes, sir.

27 Q. And you also wanted to have the charges dismissed
28 after you testified, right?

R3

1 A. Yes, sir, I did.

2 Q. And didn't you also on your list indicate that you
3 wanted a place to stay with a telephone for three or four
4 months?

5 A. Yes. Until I can get back -- or receive a job
6 which I had already lined up and I still do --

7 Q. Um-hum.

8 A. -- so I can revert -- rent my own place or possibly
9 buy one and install my own telephone.

10 Q. And didn't you indicate, though, on there that you
11 wanted job placement and money?

12 A. Yes. For a second hand -- or second type job.

13 Q. Um-hum. And you also wanted a car or an
14 automobile, right?

15 A. Yes. For transportation --

16 Q. That was on your list, wasn't it?

17 A. Yes, sir.

18 Q. You also put on your list that you wanted a new
19 identification, didn't you?

20 A. Yes.

21 Q. And even went so far as to put down on your list
22 that you wanted an eye exam and glasses, right?

23 A. Yes. My glasses were broken in the county jail.
24 It's a matter I have to take up with the Sheriff's Department.

25 Q. Okay. And if that -- if that wasn't enough to
26 persuade the prosecution to give you a deal, you'd even
27 indicated that you had more information that you wanted to give
28 them, right?

RS

1 A. Yes, I did.

2 Q. So you were willing to -- or you said you had
3 information about another death penalty case, right?

4 A. Yes.

5 Q. That would be a case involving James Maloney?

6 A. Yes, it would.

7 Q. Okay. And you told him that you could even give
8 them information about drug sales in North Stockton, right?

9 A. Many.

10 Q. You indicated that you could turn them on to some
11 of the bigger dealers in town?

12 A. Yes, I can.

13 Q. So you were pulling out all the stops and offering
14 just about any sort of information for them, right?

15 A. Yes. Very reliable information that I had come
16 across during my years in Stockton.

17 Q. Was this -- this list that you had, was that
18 written on a piece of paper?

19 A. I believe it was -- might have been written on two
20 pieces of paper.

21 Q. Okay. In your own handwriting or did you have
22 somebody write it?

23 A. It was in my own handwriting. I am quite literate.

24 Q. Did you sign it?

25 A. Yes, I believe I did. I probably dated it.

26 Q. What else did you indicate to the prosecution that
27 you'd be able to do for them?

28 A. My memory doesn't record anything right now as

1 offering other information for them.

2 Q. But you -- well, let me show you this, People's --
3 or Defendant's B.

4 Do you recognize that?

5 A. Yes, I do. That's my handwriting.

6 Q. Okay. Both pages?

7 A. Yes.

8 Q. I notice there is no signature on the second page.

9 Is your signature covered up by some other sheet of
10 paper on top of that?

11 A. I don't know. I wasn't -- I wasn't present when
12 these copies were made. I think I signed it only on the
13 envelope.

14 Q. Okay. So you don't recall whether you signed it on
15 the second page or not?

16 A. No. By looking at it I think it is probably --
17 that was written on the back page.

18 Q. Okay. And that's the letter you sent to Mr.
19 Garber.

20 In fact, it was addressed to Mr. Garber, right?

21 A. Yes, sir.

22 Q. So you even knew he was in charge of this case,
23 right?

24 A. Yes. As he was also in mine.

25 Q. And you have in fact been given a promise by the
26 prosecution, have you not?

27 A. For a recommendation.

28 Q. Okay. And that recommendation is a year in the

RJ

1 county jail, right?

2 A. Yes, sir.

3 Q. And that means with the -- your good time-work time
4 you get -- you actually only do eight months; is that correct?

5 A. Under the new California State law with the
6 rehabilitation program, six months.

7 Q. Okay. So you were arrested when?

8 A. November 3rd, 1982, in Kingman, Arizona.

9 Q. Okay. So you wouldn't have too much more time to
10 do, right?

11 A. It depends on whether the circumstances would be as
12 last time or this time in terms of waiving the good time.

13 Q. And you have also -- it's also been indicated to
14 you that this probation violation would also be dismissed,
15 right?

16 A. That they -- they would be talking about it. I
17 don't know if it would actually be dismissed. It would probably
18 go on record as still having a violation.

19 Q. But you wouldn't be sentenced to prison on it?

20 A. I doubt it very seriously.

21 Q. And you have also been indicated -- it had been
22 indicated to you that this county jail time that you have to
23 serve wouldn't have to be done in the San Joaquin County Jail,
24 right?

25 A. It was -- that's a matter of discretion.

26 Q. Well, you are not in the county jail now, right?

27 A. No, I am not.

28 Q. So you certainly wouldn't expect that you have to

1 go back and do the time there?

2 A. Expect it? No. I might request it, though.

3 Q. Okay. And all this, though, was -- was contingent

4 upon your testifying, right?

5 A. Yes, sir.

6 Q. In fact, your case has been put over until sometime

7 in April, right?

8 A. April 11th.

9 Q. To see how you do here, right?

10 A. For two reasons. One for the order to show cause

11 on the violation and one for a pretrial conference.

12 Q. Okay. And you waived time so you could have that

13 put over until April, right?

14 A. I waived time from the outset of the -- my charges.

15 Q. And have you also been promised that you would be

16 given some assistance as far as the victim witness program?

17 A. Financial assistance?

18 Q. Yeah.

19 A. No.

20 Q. Have you been promised that -- that you would be

21 relocated once you finished serving your time?

22 A. No.

23 Q. That was one of the things that you had asked

24 for, right?

25 A. Yes.

26 Q. Okay. And is that something you would probably ask

27 for after you -- after you testified if you are successful here?

28 A. It's a matter of opinion. I might, I might not.

RS

1 MR. HOLMES: Nothing further.

2 THE COURT: All right. Mr. Garber, any redirect?

3 MR. GARBER: Nothing further.

4 THE COURT: May the Court excuse the witness?

5 MR. GARBER: No objection.

6 THE COURT: Mr. Holmes, any objection to my excusing the
7 witness?

8 MR. HOLMES: No.

9 THE COURT: All right. Thank you, Mr. Samuelson. You
10 are excused.

11 Ladies and gentlemen, we are going to send you out
12 to lunch now. The recess will be until 1:30, and during the
13 recess again remember the Court's admonition that you are not to
14 talk about the case or make up your mind. please return at 1:30
15 this afternoon.

16 Would Mrs. Moles please remain in the jury box?

17
18 (The following proceedings were held in open court
19 out of the presence of the jurors except Mrs. Moles:)

20
21 THE COURT: All right. All the other jurors have left
22 now.

23 Mrs. Moles, all I wanted to do right now is ask you
24 your permission to show these documents that you have shown to
25 me to counsel before I take up your matter at all.

26 Is that okay with you?

27 MRS. MOLES: That's fine.

28 THE COURT: Could you come back at 1:15 and I am going to

Exhibit 22

Declaration of Frank Moppins

DECLARATION OF FRANK I. MOPPINS

I, FRANK I. MOPPINS, declare:

FM 1. I was incarcerated at the main jail of San Joaquin County from December 1980 until about 1983. While there, I was first held in the area of the jail known as "hole." I was later moved to the medical cells. The medical cells were located next to the trustee cells. The two areas were separated by caged bars, in the front, and a wall on the side. The ceiling was bars, so trustees and inmates in the medical cells could hear each other.

FM2. While I was at San Joaquin County Jail the guards regularly tried to get inmates to inform on other inmates, ⁷ both about their court cases, and about activities that were going on inside of the jail. Informants, also known as snitches and rats, were

used against a lot of inmates at that time. ^{guards asked inmates they thought could be informants what they knew about other inmates' cases, and if you took the bait and helped the guards, you got extra phone calls, extra food, and often breaks on your time served. Although I was personally asked by guards to rat, I never did.}

FM3. Inmates who agreed to act as informants were planted next to or near the cell of the inmate or inmates they were told to inform on. Once the informants got the information they were supposed to get, or could pretend that they had gotten, they were given whatever reward they had been promised. These rewards usually involved some sort of sentencing break and sometimes resulted in release or probation.

FM4. The general conditions at the jail often made it easy for snitches to fabricate "confessions" rather than actually obtain them. In fact, it was common for inmates acting as informants to make up incriminating statements supposedly made by another inmate because it was very easy to get information about other inmates' cases.

Several of the inmates, including me, had subscriptions to various newspapers, including *The Stockton Record*. The newspapers circulated throughout the jail, were passed from inmate to inmate, and inmates gossiped about other inmates' cases. Each edition of a newspaper usually circulated for an average of at least a month, until it was too ratty to read. Everyone also gossiped about everyone's cases. Nothing was a secret, rumors, no matter how seemingly small, traveled from one end of the jail to the other within hours.

J.M. 5. Of all of the inmates at the jail, the trustees had the most information about all of the inmates. As trustees, they had access to just about all areas in the jail, and could talk freely with those in the mainline population. There was also a television in the trustee area which was, for the most part, going all of the time. Between their circulation and access to information, just about any trustee could tell you all about any case in the jail, especially the big cases, like the murder cases.

J.M. 6. The guards were another source of information used to fabricate "confessions." Guards often fed inmates police reports or newspaper stories giving details of the crime that the targeted inmate supposedly gave the snitch. Sometimes the

J.M. guards simply told the snitch what to say the inmate had said. ^{OF ALL THE GUARDS, I REMEMBER} OFFICERS LITTLE, KENNEDY, and *J.M.* DUGGER WERE THE DIABLIEST, not only did they recruit informants, they also used threats of physical violence and were the first to use it.

Everyone in the jail knew it was common practice, so most people kept to themselves about their cases, and the newer men who came in were immediately told by the older inmates to keep quiet about their cases. Unfortunately, that was not always enough -- when the guards wanted to nail someone, they found a way.

J.M. 7. From what I know of the jail, I believe that confessions supposedly made in the hole are the most likely to be false. There is very little privacy down there, and

everyone in the hole knew about the two-way intercoms down there. The guards were capable of listening in on everything that was said between inmates, and inmates could not really whisper to each other because the cells were too far apart.

I declare under the penalty of perjury that the foregoing is true and correct and was executed on ^{Aug. 5}~~July~~ _____, 1994 in Vacaville, California.
J.M.


FRANK I. MOPPINS

Exhibit 23

**Transcript of Municipal Court Proceedings of December 14,
1982 in People v. Samuelson.**

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ORIGINAL

FILED

1982 DEC 21 PM 4:36

RALPH J. GLENN
BY Tanya H. Glenn
DEPUTY

IN THE MUNICIPAL COURT FOR THE STOCKTON JUDICIAL DISTRICT
COUNTY OF SAN JOAQUIN, STATE OF CALIFORNIA

---o0o---

The People of the
State of California,

vs.

BRUCE ALLEN SAMUELSON,

Defendant.

33852

Department A

---o0o---

The above-entitled matter came on to waive preliminary
examination on the 14th day of December, 1982, at the hour of
2:55 O'clock P.M., thereof, before HONORABLE THOMAS B. TEAFORD,
Judge of the Municipal Court for the Stockton Judicial District
Stockton, San Joaquin County, California; the People being
represented by BERNARD GARBER, Deputy District Attorney, County
Courthouse, Stockton, California; and the Defendant being
personally present upon the court, but not represented by
counsel.

THE CLERK: Bruce Allen Samuelson to waive
preliminary examination. The defendant is in pro per.

MR. GARBER: May we approach the bench, Your
Honor?

EXHIBIT F

245

1 THE COURT: Yes.

2 (Discussion at bench outside the hearing of the Reporter.)

3 THE COURT: Mr. Samuelson, you're representing
4 yourself in this case, is that correct, you don't have a lawyer?

5 THE DEFENDANT: Yes.

6 THE COURT: Do you think you understand what
7 was discussed at the bench?

8 THE DEFENDANT: Yes.

9 THE COURT: Okay. Mr. Samuelson, I want to make
10 sure that you understand what I'm telling you now. If it isn't,
11 you stop me and I'll explain it to you again, try to use other
12 words.

13 You're charged with several charges here, six, to be exact,
14 several different felonies. What we discussed at the bench
15 was that you were willing to waive your right to have a
16 preliminary examination and be held to answer in Superior Court,
17 then in exchange for your doing that you've agreed to enter
18 a plea in the Superior Court to one count of forgery and one
19 count of auto theft, and that if they file all these charges
20 against you in Superior Court, you would only be required to
21 plead to one count of forgery and one count of auto theft.

22 The Judge in Superior Court would place you on probation
23 for a number of years; and that you would receive no more than
24 one year in the county jail as a condition of that felony
25 probation.

26 THE DEFENDANT: (Affirmative nod.)

27 THE COURT: If the Superior Court Judge in
28 Superior Court decides after reading the probation report that

1 he doesn't wish to give you a year in the county jail, but wanted
2 to send you to state prison or give you some harsher treatment
3 than that, you would have a right to return here to this court
4 and to have a preliminary examination on these charges, so you
5 would be right back in the position you're in right now.

6 You also understand that once you do whatever time the
7 Judge in Superior Court tells you to do as a condition of
8 probation, if you violate that probation, nobody is making any
9 promises to you that you wouldn't be required possibly to go
10 to state prison if you violated that probation.

11 Do you understand that?

12 THE DEFENDANT: Yes.

13 THE COURT: Okay. The other thing that I want
14 you to understand is that the preliminary examination that
15 you're waiving or giving up is your right to have me determine
16 after listening to witnesses that you're entitled to cross-
17 examine and to see and hear here in court, for me to determine
18 whether or not there's probable cause to believe that these
19 crimes were committed and whether or not there's probable cause
20 to believe that you committed them.

21 It's an important right you shouldn't give up lightly,
22 it's your chance to see the witnesses up here on the witness
23 stand, for you to question those witnesses, and you should
24 understand exactly what you're giving up.

25 Do you think you do?

26 THE DEFENDANT: Yes.

27 THE COURT: Okay. Now, it's also very important
28 that I understand whether or not there have been any other

1 promises made to you whatsoever.

2 Have there been any promises made to you other than what I
3 have discussed right here?

4 THE DEFENDANT: No.

5 THE COURT: Nobody has made any threats to you
6 in order to get you to waive this preliminary examination, have
7 they?

8 THE DEFENDANT: No.

9 — THE COURT: All right. Is that the state of the
10 negotiations, Mr. Garber?

11 MR. GARBER: Yes, Your Honor.

12 THE COURT: Okay. So then, Mr. Samuelson, do
13 you wish to at this time waive your right to a preliminary
14 examination on these charges that we have discussed here that
15 is in this complaint, that is the amended complaint against you?

16 THE DEFENDANT: Yes, Your Honor.

17 THE COURT: Okay. Then the defendant--and the
18 bail, the other thing that was discussed at the bench was that
19 bail would remain the same. The bail schedule is set at \$10,000
20 and it will remain that, and you are to appear in Superior Court,
21 to be held to answer to the Superior Court for December 28th
22 at 8:45.

23 If at any time you wish to have an attorney appointed to
24 represent you, all you need to do is request that in whatever
25 court you're in. Do you understand that?

26 THE DEFENDANT: Yes.

27 THE COURT: Okay. That will be the date that
28 you appear in Superior Court, two weeks from today. Okay.

1 STATE OF CALIFORNIA,)
2) SS.
3 COUNTY OF SAN JOAQUIN.)

4 I, FRED S. BERRY, Official Reporter for the Municipal Court
5 for the Stockton Judicial District, County of San Joaquin, State
6 of California, do hereby certify:

7 That I was present in court at the time of the hearing
8 of the foregoing matter which was heard at the time and place
9 set forth above; that I took down in stenograph shorthand notes
10 all of the proceedings had; that I thereafter transcribed the
11 said notes into longhand typewriting, the above and foregoing
12 being a full, true and correct transcription thereof.

13 *F. S. Berry*
14 _____
15 Official Reporter
16
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Exhibit 24

**Excerpts of Court Files in People v. Bruce Samuelson, San
Joaquin County Superior Court Nos. 32310, 33852, 33960**

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

Date: Dec 28, 1982 # 5 HON. K. PETER SAIRS
 Dep. No. 1 Court Met. At: Stockton, California JUDGE
ADOTTI LENA TERRAZAS
 Bailiff: Reporter Deputy Clerk

People of the State of California
 vs.
BRUCE ALLEN SAMUELSON C
 Defendant
 Counsel for People
Richard A. Miller
 Deputy/Assistant District Attorney
 PRO PER John Schick
 Counsel for Defendant

MINUTE ORDER A&P Action No. 33852
☒ Felony To Wit: 10811 VC, Ct. I 470 PC, Ct. IV
☒ Misdemeanor 496 PC, Ct. II 470 PC, Ct. V
496 PC, Ct. III 470 PC, Ct. VI

PEOPLE REPRESENTED AS ABOVE, AND DEFENDANT PRESENT WITH COUNSEL.

- ☐ 30501 Defendant not appearing as ordered.
- ☐ Copy information _____ to Deft/Counsel.
- ☐ 30504 Court appoints ☐ 30505 relieves Public Defender.
- ☒ 30506 Court appoints counsel through L.R.S.
- ☐ 30507 Court informs defendant of legal rights.
- ☒ 30509 Defendant states true name _____
- ☐ Information is read ☒ Reading waived.
- ☐ 30514 Defendant withdraws plea for _____
- ☐ 30515 On People's motion/P.C. 17 information count amended Section _____
- ☐ 30516 Defendant pleads Guilty ☐ 30437 Nolo Contendere as charged on count(s) _____
- ☐ 30517 Defendant pleads Not Guilty as to count(s) _____
- ☐ 30518 Defendant pleads Guilty of the lesser include offense of _____
- ☐ 30519 Defendant pleads Not Guilty and Not Guilty by reason of insanity _____
- ☐ 30520 Defendant Admits ☐ 30521 Denies use of weapon.
- ☐ 30522 Defendant admits prior convictions of felony _____
- ☐ 30523 Defendant denies prior convictions of felony _____
- ☐ 30524 Court fixes degree of the offense as _____
- ☐ 30525 People move to dismiss count(s) _____ and the motion is by the Court granted _____

- ☐ 30526 Proceedings are/have been heretofore suspended for the purpose of determining whether or not defendant is: _____
- ☐ 30527 Court appoints Drs. _____ to examine the defendant.
- ☐ 30529 C.C. Afft. & MO will be served on Defendant within 24 Hours.
- ☐ 30530 Deft. waives personal service Ptn. & MO.
- ☐ Defendant waives statutory time/procedural defects.
- ☐ Waiver personal appearance executed in open Court.
- ☐ 30533 Referred ☐ 30534 Waiver to Probation Officer for presentence report.
- ☐ 30535 Defendant report to P.O. for interview on _____
- ☐ ☐ 30536 Motion Granted ☐ 30537 Denied

THE ANNEXED INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE
 CLERK OF THE SUPERIOR COURT
 IN AND FOR THE COUNTY OF SAN JOAQUIN
 SEP 19 1991
 JEANNE WILLIAMS

- ☐ 30538 Bench warrant is issued for arrest of defendant.
- ☐ 30539 Bench warrant issued _____ is recalled.

- ☒ 30540 P.T.C. ☐ 30541 Trial setting ☐ 30542 Jury Trial set Jan 7, 1983 8:45 #5
- ☐ 30547 P&J is set for _____
- ☐ 30543 Hearing ☐ 30544 Ruling on _____ motion is set for/cont'd to _____
- ☐ Hearing on doctors' reports is ☐ 30440 set for ☐ 30441 continued
- ☐ 30444 Defendant is remanded back to _____ for further hearing on _____
- ☐ Defendant is remanded to the custody of the ☐ 30549 Sheriff ☐ 30446 D.V.I.
- ☐ 30447 Defendant is permitted to remain at liberty ☐ 30552 on own recognizance
- ☐ 30452 on bail heretofore posted
- ☐ 30452 Bail is fixed in the amount of \$ _____ cash or surety or double if personal bond.
- ☐ Bail Bond No. _____ in the amount of \$ _____ is ☐ 30453 forfeited ☐ 30454 exonerated.
- ☐ Reduction in ☐ 30554 bail ☐ 30555 O.R. release

Dated: _____ Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

12/28/82

5

HON:

K. PETER SAIERS

JUDGE

Date

Dept. No.

Court Met At: Stockton, California

J. Nadotti

Bailiff

Reporter

Lena Terrazas
Deputy Clerk

People of the State of California

vs.

BRUCE ALAN SAMUELSON

C

01

Defendant

Counsel for People

Richard Eschenberger / Bernard Burke
Deputy Assistant District Attorney

John Schick
Counsel for Defendant

MINUTE ORDER - NATURE OF PROCEEDINGS: SETTING OF VIOL OF PROBATION No. 32310

☒ Felony

To Wit: 459 PC, CT. I (2nd deg)

☐ Misdemeanor

459 PC, CT. II (2nd deg)

**PEOPLE REPRESENTED AS ABOVE, AND
DEFENDANT PRESENT WITH COUNSEL.**

- ☐ 30501 Defendant not appearing as ordered.
☐ 30404 Defendant returned from CRC Per Sec. 3050/3051 W&I.

- ☐ Defendant from Diagnostic (1203.03 PC).
☐ Defendant returned from _____ per Sec. _____.
☐ 30405 Civil Commitment to CRC revoked.
☐ 30406 Criminal proceedings reinstated.
☐ Defendant waives formal hearing/procedural defects.
☐ The matter is submitted on the separate written medical reports of the doctors heretofore appointed.

and the Court finds said person is/is not _____

- ☐ 30468 The matter is submitted on P.O. Report.
☐ Defendant waives statutory time for _____.
☐ Waiver personal appearance for _____.
☐ 30533 Referred ☐ 30534 Waiver to Probation Officer for presentence report.
☐ Defendant not accepted by California Youth Authority. _____ Report/Chrono memo of the Probation Officer is received and considered.
☐ Defendant waives time for Pronouncement of Judgment.
☐ Defendant is arraigned/waives arraignment for pronouncement of judgment.
☐ Defendant states there is no legal cause why judgment should not be pronounced.

IT IS ORDERED:

- ☐ Probation is ☐ 30418 denied ☐ 30419 revoked
☐ 30420 reinstated ☐ 30421 granted
☐ 30422 modified
- ☐ 30423 Imposition sentence suspended _____ years.
☐ 30424 Informal probation _____ years granted.
Conditions _____
- ☐ 30426 Conditions as announced in court.
☐ 30427 Defendant is committed to the California Youth Authority for the term prescribed by law.
☐ Defendant is ☐ 30428 committed ☐ 30429 sentenced
- ☐ 30430 Criminal proceedings suspended and defendant committed to _____ for care and treatment.
☐ 30431 Execution of sentence is stayed _____
- ☐ 30432 Defendant is sentenced to State Prison for the term prescribed by law. C/T/S _____
☐ 30433 Sentences shall be served in respect to one another as follows: _____
- ☐ 30434 And in respect to any prior incompleated sentence(s) as follows: _____
- ☐ 30435 Court informs defendant of legal rights to Appeal.
☐ 30436 Criminal proceedings are adjourned and defendant is referred for acceptance for a 90-day period of diagnostic evaluation and report, pursuant to Section 1203.03 P.C.

- ☐ Hearing on ☐ 30440 doctor's reports ☐ 30547 P&J ☒ Civil Protection motion is set for/cont'd to Jan 7, 1983
☐ 30444 Defendant is remanded back to _____ for further hearing on 8:45 AM
☐ Defendant is remanded to the custody of the ☐ 30549 Sheriff ☐ 30446 D.V.I.
☐ 30447 Defendant is permitted to remain at liberty _____ on ☐ 30555 own recognizance
on ☐ 30452 bail heretofore posted.
☐ 30538 Bench warrant issued for arrest of defendant. ☐ 30539 Bench warrant issued _____ is recalled.
☐ 30452 Bail is fixed in the amount of \$ _____.
☐ Bail Bond No. _____ in the amount of \$ _____ is ☐ 30453 forfeited ☐ 30454 exonerated. ☐ 30554 Reduction in bail ☐ 30555 O.R. release _____
☐ The Sheriff of San Joaquin County is hereby ordered to deliver the defendant to _____
☐ 30455 Reception Guidance Center at _____ ☐ 30456 California Institution for Women at _____
☐ 30457 A place and time as directed by the California Youth Authority _____

Dated: _____

Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

HON:

K. PETER SAITERS
JUDGE

Date 1/7/83 Dept. No. 5 Court Met. At: Stockton, California

D. Navone Reporter Shirley Lipton

Lena Terrazas
Deputy Clerk

People of the State of California

Counsel for People

Deputy/Assistant District Attorney

John Schick

Counsel for Defendant

BRUCE ALLEN SAMUELSON C

Defendant

01

MINUTE ORDER

HRG RE PLEA

Action No. 33852

☐ Felony

To Wit: 10851 VC, CT. I

470 PC, CT. IV

☐ Misdemeanor

496 PC, CT. II

470 PC, CT. V

496 PC, CT. III

470 PC, CT. VI

PEOPLE REPRESENTED AS ABOVE, AND DEFENDANT PRESENT WITH COUNSEL.

- ☐ 30501 Defendant not appearing as ordered.
- ☐ 30502 Copy Information/_____ to Deft/Counsel.
- ☐ 30504 Court appoints ☐ 30505 relieves Public Defender

- ☐ 30506 Court appoints counsel through L.R.S.
- ☐ 30507 Court informs defendant of legal rights.
- ☐ 30509 Defendant states true name _____

- ☐ Information is read ☐ Reading waived.
- ☐ 30514 Defendant withdraws plea of _____

- ☐ 30515 On People's motion/P.C.17/information count _____ amended Section _____

- ☐ 30516 Defendant pleads Guilty ☐ 30437 Nolo Contendere as charged in count(s) _____

- ☐ 30517 Defendant pleads Not Guilty as to count(s) _____

- ☐ 30518 Defendant pleads Guilty of the lesser included offense of _____

- ☐ 30519 Defendant pleads Not Guilty and Not Guilty by reason of insanity _____

- ☐ 30520 Defendant Admits ☐ 30521 Denies use of weapon _____

- ☐ 30522 Defendant admits prior convictions of felony _____
- ☐ 30523 Defendant denies prior convictions of felony _____

- ☐ 30524 Court fixes degree of the offense as _____

- ☐ 30525 People move to dismiss count(s) _____ and the

motion is by the Court granted

- ☐ 30526 Proceedings are/have been heretofore suspended for the purpose of determining whether or not defendant is: _____

- ☐ 30527 Court appoints Drs. _____ to examine the defendant.

- ☐ 30529 C.C. Afft. & MO will be served on Defendant within 24 Hours.

- ☐ 30530 Deft. waives personal service Ptn. & MO.

- ☐ Defendant waives statutory time/procedural defects.

- ☐ Waiver personal appearance executed in open Court.

- ☐ 30533 Referred ☐ 30534 Waiver to Probation Officer for presentence report.

- ☐ 30535 Defendant report to P.O. for interview on _____

- ☐ ☐ 30536 Motion Granted ☐ 30537 Denied

THE NEXED INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN MY OFFICE

CLERK OF THE SUPERIOR COURT

- ☐ 30538 Bench warrant is issued for arrest of defendant.

- ☐ 30539 Bench warrant issued _____ is recalled.

Clerk of the Superior Court

CHRISTINA R. JONES

- ☐ 30540 P.T.C. ☐ 30541 Trial setting ☐ 30542 Jury

Trial set

- ☐ 30547 P&J is set for _____

- ☐ 30543 Hearing ☐ 30544 Ruling on _____

motion is set for/cont'd to

- ☐ Hearing on doctors' reports is ☐ 30440 set for ☐ 30441 continued

- ☒ 30444 Defendant is remanded back to Muni Court for further hearing on Complaint 1

- ☒ Defendant is remanded to the custody of the ☒ 30549 Sheriff ☐ 30446 D.V.I.

- ☐ 30447 Defendant is permitted to remain at liberty

- ☐ 30552 on own recognizance

- ☐ 30452 on bail heretofore posted.

- ☐ 30452 Bail is fixed in the amount of \$ _____ cash or surety or double if personal bond.

- ☐ Bail Bond No. _____ in the amount of \$ _____ is ☐ 30453 forfeited ☐ 30454 exonerated.

- ☐ Reduction in ☐ 30554 bail ☐ 30555 O.R. release

Dated: _____

Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

1/7/83 5
Date Dept. No.

HON:

D. Navone
Bailiff

Court Met At: Stockton, California
Shirley Kuyten
Reporter

K. PETER SATERS JUDGE
Lena Terrazas
Deputy Clerk

People of the State of California
vs.

Counsel for People
Bernard Harbor
Deputy/Assistant District Attorney
John Schick
Counsel for Defendant

BRUCE ALAN SAMUELSON C
01 Defendant

MINUTE ORDER - NATURE OF PROCEEDINGS: VIOL OF PROB
☐ Felony To Wit: 459 PC, CT. I (2nd deg) Action No. 32310
☐ Misdemeanor 459 PC, CT. II (2nd deg)

**PEOPLE REPRESENTED AS ABOVE, AND
DEFENDANT PRESENT WITH COUNSEL.**

- ☐ 30501 Defendant not appearing as ordered.
☐ 30404 Defendant returned from CRC Per Sec. 3050/3051 W&I.
☐ Defendant from Diagnostic (1203.03 PC).
☐ Defendant returned from _____ per Sec. _____
☐ 30405 Civil Commitment to CRC revoked.
☐ 30406 Criminal proceedings reinstated.
☐ Defendant waives formal hearing/procedural defects.
☐ The matter is submitted on the separate written medical reports of the doctors heretofore appointed _____
and the Court finds said person is/is not _____

☐ 30468 The matter is submitted on P.O. Report.
☐ Defendant waives statutory time for _____
☐ Waiver personal appearance for _____
☐ 30533 Referred ☐ 30534 Waiver to Probation Officer for presentence report.
☐ Defendant not accepted by California Youth Authority. _____ Report/Chrono
memo of the Probation Officer is received and considered.
☒ Defendant waives time for Pronouncement of Judgment.
☐ Defendant is arraigned/waives arraignment for pronouncement of judgment.
☐ Defendant states there is no legal cause why judgment should not be pronounced.

IT IS ORDERED:

- ☐ Probation is ☐ 30418 denied ☐ 30419 revoked
☐ 30420 reinstated ☐ 30421 granted
☐ 30422 modified

☐ 30423 Imposition, sentence suspended _____ years.
☐ 30424 Informal probation _____ years granted.
Conditions _____

☐ 30426 Conditions as announced in court.
☐ 30427 Defendant is committed to the California Youth Authority for the term prescribed by law.
☐ Defendant is ☐ 30428 committed ☐ 30429 sentenced

☐ 30430 Criminal proceedings suspended and defendant committed to _____ for care and treatment.
☐ 30431 Execution of sentence is stayed _____

☐ 30432 Defendant is sentenced to State Prison for the term prescribed by law. C/T/S _____
☐ 30433 Sentences shall be served in respect to one another as follows: _____

☐ 30434 And in respect to any prior incompleated sentence(s) as follows: _____

☐ 30435 Court informs defendant of legal rights to Appeal.
☐ 30436 Criminal proceedings are adjourned and defendant is referred for acceptance for a 90-day period of diagnostic evaluation and report, pursuant to Section 1203.03 P.C.

- ☐ Hearing on ☐ 30440 doctor's reports ☐ 30547 P&J ☒ W&I motion is set for/cont'd to Feb. 8 1983
☐ 30444 Defendant is remanded back to _____ for further hearing on 8:45
☒ Defendant is remanded to the custody of the ☒ 30549 Sheriff ☐ 30446 D.V.I. #5
☐ 30447 Defendant is permitted to remain at liberty _____ on ☐ 30555 own recognizance _____
on ☐ 30452 bail heretofore posted.
☐ 30538 Bench warrant issued for arrest of defendant. ☐ 30539 Bench warrant issued _____ is recalled.
☐ 30452 Bail is fixed in the amount of \$ _____
☐ Bail Bond No. _____ in the amount of \$ _____ is ☐ 30453 forfeited ☐ 30454 exonerated. ☐ 30554 Reduction in bail ☐ 30555 O.R. release _____
☐ The Sheriff of San Joaquin County is hereby ordered to deliver the defendant to _____
☐ 30455 Reception Guidance Center at _____ ☐ 30456 California Institution for Women at _____
☐ 30457 A place and time as directed by the California Youth Authority _____

Dated: _____

Judge of the Superior Court

28
CC-CR-116 (10/77)

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

FEB 8, 1983

HON. KENNETH F. FERGUSON
K. PETER SATERS
JUDGE

Date FEB 8, 1983 Dept. No. 225

Court Met At: Stockton, California

D. Navone

Mike Hyke
Reporter

Iena Terrazas
Deputy Clerk

People of the State of California

vs.

Counsel for People

Terrence Van Ouse
Deputy/Assistant District Attorney

BRUCE ALLEN SAMUELSON

C

John Schick

01

Defendant

Counsel for Defendant

MINUTE ORDER

A&P

Action No. 33960

☒ Felony

To Wit: 10851 VC, Ct. I

470 PC, Ct. IV

☐ Misdemeanor

496 PC, Ct. II

470 PC, Ct. V

496 PC, Ct. III

**PEOPLE REPRESENTED AS ABOVE, AND
DEFENDANT PRESENT WITH COUNSEL.**

- ☐ 30501 Defendant not appearing as ordered.
☐ Copy Information/_____ to Deft/Counsel.
☐ 30504 Court appoints ☐ 30505 relieves Public Defender

- ☐ 30506 Court appoints counsel through L.R.S.
☐ 30507 Court informs defendant of legal rights.
☒ 30509 Defendant states true name _____

- ☐ Information is read. ☒ Reading waived.
☐ 30514 Defendant withdraws plea of _____
☐ 30515 On People's motion/P.C.17/information count _____
amended Section _____

- ☐ 30516 Defendant pleads Guilty ☐ 30437 Nolo Contendere as charged in count(s) _____

- ☒ 30517 Defendant pleads Not Guilty as to count(s) _____

- ☒ 30518 Defendant pleads Guilty of the lesser included offense of Waiver Time

- ☐ 30519 Defendant pleads Not Guilty and Not Guilty by reason of insanity _____

- ☐ 30520 Defendant Admits ☐ 30521 Denies use of weapon.

- ☐ 30522 Defendant admits prior convictions of felony _____

- ☐ 30523 Defendant denies prior convictions of felony _____

- ☐ 30524 Court fixes degree of the offense as _____

- ☐ 30525 People move to dismiss count(s) _____

_____ and the
motion is by the Court granted _____

- ☐ 30526 Proceedings are/have been heretofore suspended for the purpose of determining whether or not defendant is: _____

- ☐ 30527 Court appoints Drs. _____

- _____ to examine the defendant.
☐ 30529 C.C. Afft. & MO will be served on Defendant within 24 Hours.

- ☐ 30530 Deft. waives personal service Ptn. & MO.

- ☐ Defendant waives statutory time/procedural defects.

- ☐ Waiver personal appearance executed in open Court.

- ☐ 30533 Referred ☐ 30534 Waiver to Probation Officer for presentence report.

- ☐ 30535 Defendant report to P.O. for interview on _____

- ☐ _____ ☐ 30536 Motion Granted ☐ 30537 Denied

- ☐ 30538 Bench warrant is issued for arrest of defendant.

- ☐ 30539 Bench warrant issued _____ is recalled.

- ☒ 30540 P.T.C. ☐ 30541 Trial setting ☐ 30542 Jury

Trial set April 11, 1983 9:45

- ☐ 30547 P&J is set for #5

- ☐ 30543 Hearing ☐ 30544 Ruling on _____

motion is set for/cont'd to _____

- ☐ Hearing on doctors' reports is ☐ 30440 set for ☐ 30441

continued _____

- ☐ 30444 Defendant is remanded back to _____ for further hearing on _____

- ☒ Defendant is remanded to the custody of the ☒ 30549 Sheriff ☐ 30446 D.V.I. _____

- ☐ 30447 Defendant is permitted to remain at liberty _____ ☐ 30552 on own recognizance _____

☐ 30452 on bail heretofore posted.

- ☐ 30452 Bail is fixed in the amount of \$ _____ cash or surety or double if personal bond.

- ☐ Bail Bond No. _____ in the amount of \$ _____ is ☐ 30453 forfeited ☐ 30454 exonerated.

☐ Reduction in ☐ 30554 bail ☐ 30555 O.R. release _____

Dated: _____

Judge of the Superior Court

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN

Date 2/8/83 5
Depr. No.

Court Met At: Stockton, California

HON:

K. PETER SAIBERS
JUDGE

D. Navone
Bailliff

Mike Hepke
Reporter

Lena Terrazas
Deputy Clerk

People of the State of California

Counsel for People

vs.

Deputy/Assistant District Attorney

BRUCE ALAN SAMUELSON

C

John Schick

01

Defendant

Counsel for Defendant

MINUTE ORDER - NATURE OF PROCEEDINGS: OSC VIOL OF PROB

Action No: 32310

☒ Felony

To Wit: 459 PC, CT. I (2nd deg)

☐ Misdemeanor

459 PC, CT. II (2nd deg)

PEOPLE REPRESENTED AS ABOVE, AND DEFENDANT PRESENT WITH COUNSEL.

- ☐ 30501. Defendant not appearing as ordered.
☐ 30404 Defendant returned from CRC Per Sec. 3050/3051 W&I.

- ☐ Defendant from Diagnostic (1203.03 PC).
☐ Defendant returned from per Sec.
☐ 30405 Civil Commitment to CRC revoked.
☐ 30406 Criminal proceedings reinstated.
☐ Defendant waives formal hearing/procedural defects.
☐ The matter is submitted on the separate written medical reports of the doctors heretofore appointed

and the Court finds said person is/is not

- ☐ 30468 The matter is submitted on P.O. Report.
☐ Defendant waives statutory time for
☐ Waiver personal appearance for
☐ 30533 Referred ☐ 30534 Waiver to Probation Officer for presentence report.
☐ Defendant not accepted by California Youth Authority. Report/Chrono memo of the Probation Officer is received and considered.
☐ Defendant waives time for Pronouncement of judgment.
☐ Defendant is arraigned/waives arraignment for pronouncement of judgment.
☐ Defendant states there is no legal cause why judgment should not be pronounced.

IT IS ORDERED:

- ☐ Probation is ☐ 30418 denied ☐ 30419 revoked
☐ 30420 reinstated ☐ 30421 granted
☐ 30422 modified
- ☐ 30423 Imposition sentence suspended years.
☐ 30424 Informal probation years granted.
Conditions
- ☐ 30426 Conditions as announced in court.
☐ 30427 Defendant is committed to the California Youth Authority for the term prescribed by law.
☐ Defendant is ☐ 30428 committed ☐ 30429 sentenced
- ☐ 30430 Criminal proceedings suspended and defendant committed to for care and treatment.
☐ 30431 Execution of sentence is stayed
- ☐ 30432 Defendant is sentenced to State Prison for the term prescribed by law. C/T/S.
☐ 30433 Sentences shall be served in respect to one another as follows:
- ☐ 30434 And in respect to any prior incompleated sentence(s) as follows:
- ☐ 30435 Court informs defendant of legal rights to Appeal.
☐ 30436 Criminal proceedings are adjourned and defendant is referred for acceptance for a 90-day period of diagnostic evaluation and report, pursuant to Section 1203.03 P.C.

- ☐ Hearing on ☐ 30440 doctor's reports ☐ 30547 P&J ☒ OSC - Viol Prob motion is set for/cont'd to April 11, 1983
☐ 30444 Defendant is remanded back to for further hearing on
☒ Defendant is remanded to the custody of the ☒ 30549 Sheriff ☐ 30446 D.V.I.
☐ 30447 Defendant is permitted to remain at liberty on ☐ 30555 own recognizance
 on ☐ 30452 bail heretofore posted.
☐ 30538 Bench warrant issued for arrest of defendant. ☐ 30539 Bench warrant issued is recalled.
☐ 30452 Bail is fixed in the amount of \$
☐ Bail Bond No. in the amount of \$ is ☐ 30453 forfeited ☐ 30454 exonerated. ☐ 30554 Reduction in bail ☐ 30555 O.R. release
☐ The Sheriff of San Joaquin County is hereby ordered to deliver the defendant to
☐ 30455 Reception Guidance Center at ☐ 30456 California Institution for Women at
☐ 30457 A place and time as directed by the California Youth Authority

Dated:

Judge of the Superior Court

Exhibit 25

**Excerpt of Court File in State v. Samuelson, County of Ada,
Fourth Judicial District Case No. HCR20074**

NO. _____ FILED
A.M. 8:00 P.M. _____

OCT 27 1993

J. DAVID NAVARRO, CLERK
BY Sabbatini
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,

Plaintiff,

vs.

BRUCE ALAN SAMUELSON,
DOB 12-17260 SSN 560-25-3468

Defendant.

Case No. HCR 20074

JUDGMENT OF CONVICTION
AND SENTENCE

The above-named matter came before the court for sentencing on October 25, 1993. The defendant appeared in person and with his attorney Mr. Gus Cahill. The State was represented by Ms. Jean Fisher as prosecuting attorney. The record reflects the following:


An Information was filed on April 15, 1993, charging the defendant with the crime of GRAND THEFT, FELONY, I.C. §18-2403(1), 18-2407(1). Arraignment was held on April 19, 1993, at which charging the defendant appeared in person and with counsel and was advised of the charge and the possible penalties and was further advised of the applicable constitutional and statutory rights. Thereafter the defendant entered a plea of guilty to GRAND THEFT, FELONY, I.C. §18-2403(1), 18-2407(1). The defendant's plea of guilty was accepted by the court following examination of the defendant under oath. Sentencing was continued for preparation of a presentence report which was completed and reviewed by the court and counsel.

1 Counsel for State and for the Defendant made statements and the defendant was
2 given the opportunity to make a statement and offer evidence in mitigation. Inquiry
3 was made by the court to determine if there was any legal cause why judgment should
4 not be pronounced and there being none the court rendered Judgment as follows:

5 IT IS HEREBY ORDERED, ADJUDGED AND DECREED That the defendant is
6 guilty of the crime of GRAND THEFT, FELONY, I.C. §18-2403(1). As a consequence
7 the defendant is committed to the custody of the State Board of Correction for a term
8 of ten (10) years consisting of a mandatory minimum term of three (3) years followed
9 by an indeterminate term of seven (7) years. The court retains jurisdiction for 120-
10 days. The defendant shall receive credit for 60 days served prior to sentence if
11 probation is not granted.

12 IT IS FURTHER ORDERED that the Clerk deliver a certified copy of this
13 Judgment and Commitment to the said Sheriff and the State Board of Correction,
14 which shall serve as the commitment of the defendant. The Sheriff is directed to
15 deliver custody of the defendant to the State Board of Correction forthwith.

16 Dated this 26 day of October, 1993.

17 
18 GERALD F. SCHROEDER
19 District Judge

NO. Motion Only
FILED
A.M. 8:42 P.M.

DEC 12 1994

J. DAVID NAVARRO, CLERK
BY Melissa B
DEPUTY

NO. Order Only
FILED
A.M. _____ P.M. 2:15

DEC 13 1994

J. DAVID NAVARRO, CLERK
BY Michelle Birney
DEPUTY

GREG H. BOWER
Ada County Prosecuting Attorney

Connie Vietz
Deputy Prosecuting Attorney
602 West Idaho Street
Boise, Idaho 83702-5954
Telephone: (208) 364-2121

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF
THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

THE STATE OF IDAHO,
Plaintiff,

-vs.-

BRUCE ALAN SAMUELSON,
Defendant.

HCR. 20074

MOTION & ORDER FOR BENCH
WARRANT FOR PROBATION
VIOLATION

STATE OF IDAHO)
County of Ada) ss:

COMES NOW, Connie Vietz, Deputy Prosecuting Attorney for Ada
County, State of Idaho, being first duly sworn, deposes and says:

That on the 19th day of April, 1993, the Defendant was
arraigned before this Court upon a charge(s) of GRAND THEFT,
FELONY; that on the 9th day of August, 1993, the Defendant pled
guilty to said crime(s); and that on the 25th day of October, 1993,
this Court placed the Defendant on probation for a period of ten
(10) years.

This Court required, and Defendant agreed, that as a condition of probation he would respect and obey all the laws of the State of Idaho, at all times conduct himself as a good citizen, and obey the rules and regulations of probation. That the Defendant violated the above-mentioned term of his probation agreement by:

1. Being convicted of ASSAULT IN THE FOURTH DEGREE (DOMESTIC VIOLENCE) on or about the 24th day of August, 1994;
2. Failing to obtain written permission from his supervising officer before changing residences; and by
3. Absconding from supervision.

WHEREFORE, your affiant prays for an Order of this Court directing the Clerk of the Court to issue a Bench Warrant for the arrest of the Defendant requiring that he be arrested and brought before this Court on the arraignment day next following his arrest, at which time to show cause why the probation and sentence in this cause should not be revoked and sentence imposed according to law.

DATED this 9 day of Dec, 1994.

GREG H. BOWER
Ada County Prosecuting Attorney

Connie Vietz
By: Connie Vietz
Deputy Prosecuting Attorney

SUBSCRIBED AND SWORN to before me this 9th day of
December, 1994.

Heidi Paul
Notary Public for the State of Idaho
Residing at Boise, Idaho
Commission Expires : 11/10/96.

DEPARTMENT OF CORRECTIONS
STATE OF WASHINGTON
DIVISION OF COMMUNITY CORRECTIONS

REPORT TO: COMPACT ADMINISTRATOR
STATE OF IDAHO
NAME: SAMUELSON, BRUCE
DO: 12-17-60
CRIME: THEFT IN THE SECOND DEGREE
DATE OF SENTENCE: 10-25-93
PRESENT LOCATION: UNKNOWN

DATE: 11-09-94
NUMBER: 719353
ID 39.822
SENTENCE: 10 YEARS
PROBATION
TERMINATION DATE: 10-24-2003
STATUS: ACTIVE
CLASSIFICATION: 4A

ACR 20074

NOTICE OF VIOLATION

Bruce Samuelson has violated conditions of supervision by:

- 1: Being convicted of Assault In The Fourth Degree (Domestic Violence) on 08-24-94 in Clark County District Court.
- 2: Changing address without notifying the Department Of Corrections on/about 11-07-94 in Clark County, Washington.

Supporting Evidence/Adjustment:

1: On 11-09-94 I received a Judgement And Sentence from the District Court of Clark County. At that time it revealed that Samuelson had been convicted of Assault In The Fourth Degree on 08-24-94. Samuelson received a \$500.00 fine with \$250.00 fine suspended, 365 days jail with 362 days suspended, credit for three days served in jail and was put on a bench probation for a period of two years. Conditions of bench probation were no similars and good behavior.

2: On 11-09-94 Connie Coleman (the victim of the domestic violence) called and reported Samuelson had left her residence on 11-07-94 and has not returned. It is Connie's belief that Samuelson has left the state heading for California. Samuelson has left a trail of \$1,000.00 in bounced checks prior to his departure from Vancouver, Washington.

Recommendation: I recommend issuance of a bench warrant and if apprehended, Samuelson's probation be revoked. The State Of Washington is closing it's interest in this case with this report.

Issue Summons
Schedule Hearing

xxx Issue Bench Warrant
No Action

Other

Submitted by,

Jeff Kasler

Jeff Kasler, CCO II
8008 NE 4th Plain, Suite 360
Vancouver, Washington 98662

APPROVED:

Richard Erspamer

Richard Erspamer, CCS I
8008 NE 4th Plain, Suite 360
Vancouver, Washington 98662

APPROVED:

William McHatton
Deputy Compact Administrator

JK:ke
11-09-94/11-15-94
Orig: Central
cc: file

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

GERALD F. SCHROEDER
District Judge

JANUARY 24, 1995

CRIMINAL COURT MINUTES

STATE OF IDAHO,

Plaintiff,

vs.

BRUCE SAMUELSON,

Defendant.

Case No. HCR 20074

Appearances:

Tape No. G95013 3036 thru 4070

ROGER BOURNE
Deputy Prosecuting Attorney

Counsel for the State

ALAN TRIMMING
Deputy Public Defender

Counsel for the Defendant

TIME SET FOR 10:00 A.M.
CALL OF THE CASE: 3036

REVIEW
DEFENDANT IS PRESENT/CUSTODY

3036 The Court calls the case.

3109 Mr. Trimming informs the Court that the agreement was to reinstate probation if Washington was agreeable. The State is willing to reinstate probation with 60 days in the Ada County Jail. The defendant must be accepted to supervision in the state of Washington. The defendant will admit allegation #1.

3202 Mr. Bourne agrees to terminate at such time of transfer to Washington.

3231 The defendant is sworn in and questioned by the Court.

-The defendant is 34 years old. He graduated from Columbia University. He majored in Microcomputer Applications. He has 16 years of education. He speaks English. He is single. He has children age 2½ to 10 years. Two of the children live with the defendant. He does not see a doctor. He does not take medications. He does not see a mental health counselor. His last employer was at the JC Penney Credit Department for three (3) months. Prior to that he was in school full time. He has been in jail since January 3, 1995.

3660 The Court finds the plea is given knowingly and voluntarily with a factual basis and an understanding of the possible consequences. The Court accepts the plea.

-Counsel would like to go forward with sentencing today.

3695 Mr. Bourne requests that the defendant serve 60 days in the Ada County Jail until we find out if Washington will accept him back on probation. If Washington will take him back then the defendant may be released early.

3755 Mr. Trimming comments.

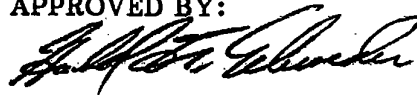
3831 The Court reviews the file. The Court notes that the PSI has been waived

-The Court reinstates probation. The defendant is to serve 60 days in the Ada County Jail with credit for 21 days served prior to sentencing. The defendant shall be released

to return to the state of Washington upon acceptance of supervision in Washington. The Court signs the Order for Temporary Custody.
4070 End

REPORTER: John Gambee
EST. COST: \$ 30.00 *4*
CLERK: Michelle Bissey/tj
DATE: January 24, 1995

APPROVED BY:



GERALD F. SCHROEDER
District Judge

Exhibit 26

Excerpt of Interrogation of Ricky Ortega

FURTHER STATEMENT OF RICK ANTHONY ORGEGA

Taken at: The SAN JOAQUIN COUNTY JAIL FACILITY
Sunday, January 11th, 1981 -- 12:31 P.M.

PERSONS PRESENT:

MICHAEL PLATT, Deputy District Attorney,
County of San Joaquin, Courthouse, Stockton, California.

SGT. DENNIS RANFORD,, Stockton Police
Department, Stockton, California.

Thomas N. Place, Certified Shorthand
Reporter No. 2239, State of California, Courthouse,
Stockton, California.

1 SGT. SANFORD: Okay, it is 12:31 p.m. on
2 Sunday, January 11th, 1981.

3 We are at the San Joaquin County Jail, the interview
4 room. Present is myself, Sergeant Sanford, Deputy DA Mike
5 Platt, the court reporter and Rick Anthony Ortega.

6 We are here to talk with Rick further concerning the
7 homicide we are investigating of Terri Winchell.

8 Rick, before we start talking to you about this, we
9 already advised you of your rights out here once before.
10 We will do it again.

11 You have the right to remain silent.

12 Anything you say can and will be used against you in a
13 court-of-law.

14 You have the right to talk to a lawyer, and have him
15 present with you while you are being questioned.

16 If you cannot afford to hire a lawyer, one will be
17 appointed before any questioning, if you wish.

18 You can decide at any time to exercise these rights
19 and not answer any question or make any statements.

20 Rick, do you understand each of these rights I have
21 explained to you?

22 THE WITNESS: Yeah.

23 SGT. SANFORD: Having those rights in mind,
24 do you wish to talk to Mr. Platt and myself now?

25 THE WITNESS: Yeah.

26 MR. PLATT: So we can get this on the record,
27 Rick, why we are taking another recorded statement now, we
28 were talking to you earlier this morning and you indicated

1 that there is some stuff that after thinking about it the
2 last two days, that you didn't put into the first statement
3 or things we didn't ask you in the first statement.

4 And we told you then why don't we get a reporter out
5 here and we will put everything back on the record again so
6 that we can fit all of the things that we missed the first
7 time or that you didn't say the first time and want to say
8 now, we can get all that stuff on the record.

9 Is that right?

10 THE WITNESS: That's correct.

11 MR. PLATT: Okay. What we will do is go
12 back, I think the best thing to do is go ahead and start
13 from the beginning and we will walk through the whole
14 sequence of events again.

15 THE WITNESS: Okay.

16 MR. PLATT: Go ahead.

17
18 EXAMINATION

19 BY SGT. SANFORD: Q. Let's start from the
20 beginning on the eighth of January, 1981, which would have
21 been Thursday. You got off work about 4 p.m.?

22 A. Yes.

23 Q. Where did you go?

24 A. Went home.

25 Q. What did you do when you got home?

26 A. I called Terri.

27 Q. What time did you call her?

28 A. It was around 4:15 or so, 4:15, 4:30.

1 Q. That is Terri winchell?

2 A. Yes.

3 Q. why did you call Terri?

4 A. I was calling her, returning the call she had made a
5 few days ago, that I didn't receive. My mother took the
6 message.

7 Q. When was this call you are talking about, by "a few
8 days ago?"

9 A. I don't remember which day. My mom may remember, but I
10 remember coming home one night and there was a message on
11 the bar that Terri had called.

12 Q. You didn't try to call her that night?

13 A. No, it was late.

14 Q. So you called Terri. Did you get ahold of her?

15 A. Yeah.

16 Q. Did you have a conversation with her?

17 A. Yeah.

18 Q. What was the conversation about?

19 A. It was about what each of us had been doing the last
20 several days, several weeks, last time I had seen her.
21 Talked about Christmas, New Year's, and just more or
22 less what we had been doing.

23 Q. Did you ask her why she had called for you a few days
24 before?

25 A. No, I didn't even ask her that.

26 Q. Was there some arrangement the two of you were going to
27 meet somewhere?

28 A. Well, she told me that she was -- she had to go to the

1 Mall to pick up some tapes or something and I told her well,
2 I told her I was going to go to the mall, too, because I
3 was going to buy -- I was going to buy a pair of pants and
4 I said "why don't we just meet there and maybe you could
5 pick out a chain for me that I was going to buy for a
6 frier. . . me for a birthday." And she said "Okay."

7 So, she said she would be there around six o'clock.
8 said "Okay." So, then we hung up.

9 Q. Did you say anything to her, who this girlfriend was?

10 A. No.

11 Q. Okay.

12 You hung up about -- how long did you talk to her?

13 A. A good half hour, I believe.

14 Q. You told her you would meet her there about six o'clock?

15 A. Yeah.

16 Q. After you hung up the phone, did you call anybody else?

17 A. Yeah, I called Mike Morales.

18 Q. Was that right after you hung up the phone?

19 A. Yeah.

20 Q. Immediately?

21 A. Well, it wasn't like that, it wasn't seconds, but I
22 called him after.

23 Q. Why did you call Mike Morales?

24 A. To tell him what -- where I was going.

25 Q. To tell him you were meeting Terri?

26 A. Yes.

27 Q. Had you and Mike previously had some conversation about
28 Terri?

1 A. Yeah.

2 Q. When was this?

3 A. Oh, a few days before.

4 Q. What was that conversation about?

5 A. I told Mike that Terri was talking about me in a very
6 rude and mean way and Mike, being my cousin, wanted to
7 stick up for me. Being the type of person he is, violence
8 came involved and -- violence, and he asked me would we --
9 he asked me if we would want -- if I would want to get her
10 or her house.

11 Q. What did Terri say about you that upset you?

12 A. She was saying that I was a faggot and that I wanted
13 her to leave Randy alone because Randy was my lover which
14 never ever came out of my mouth.

15 Q. Had you ever talked to Terri about this at all before?

16 A. About what?

17 Q. To leave Randy alone?

18 A. No. I talked to her several months ago about her and
19 Randy and I told her the problem I was having with Randy.

20 Q. You talked to Terri about this?

21 A. Yeah.

22 Q. So that we understand each other, are you a homosexual?

23 A. The only person I could be homosexual with is Randy. I
24 have never had anything to do with anybody else.

25 MR. PLATT: Did you have a homosexual
26 relationship with Randy?

27 THE WITNESS: Yeah.

28 SGT. SANFORD: Q. Did you tell Terri about

1 this homosexual relationship you had with Randy?

2 A. No, I just told her I was having feelings for him.

3 Q. This was sometime back?

4 A. Yeah, several months ago.

5 Q. When you told her this, had you had a relationship with
6 Randy at that time?

7 A. Yeah.

8 Q. But you didn't tell her that you had actually had one?

9 A. No, I wanted -- I promised and Randy promised me it
10 would be kept between him and I.

11 Q. You told her in around about way there was a certain
12 kind of feeling between you and Randy?

13 A. Yeah.

14 Q. Now, did she say anything after that to indicate that
15 she wanted you to leave Randy alone or to sever the
16 friendships you had with him?

17 A. I'm sorry?

18 Q. Did she say anything to you after that?

19 A. That she wanted me to stay away from Randy?

20 Q. That's right.

21 A. No. Nothing like that.

22 Q. Who told you that she called you a "faggot"?

23 A. There was several people I was hearing it from.

24 Q. And this was just recently?

25 A. It's been hitting me here and there, you know. Nothing --
26 yeah, it's just been -- I have been hearing it from people.

27 MR. PLATT: Did it make you mad when you
28 heard it?

1 THE WITNESS: It made me upset because I had
2 wanted it to remain between Randy and I. And I was going
3 to try to work it out and hopefully when I did work it out,
4 hopefully, I was hoping nobody would ever find out about it.

5 MR. PLATT: Were you hurt by what Terri was
6 saying about you?

7 THE WITNESS: Very hurt.

8 MR. PLATT: Did it make you want to hurt
9 Terri?

10 THE WITNESS: It didn't want to make me hurt
11 Terri, no. I never wanted to hurt Terri.

12 MR. PLATT: Did you ever want to get revenge
13 on her or at her for the hurt that she had caused you by
14 saying these things?

15 THE WITNESS: I wanted to get a revenge, but
16 it was never in a violent way.

17 It was -- I never really thought about what type of
18 revenge I wanted. I just -- I was hurt and I didn't know
19 what to do. I never wanted to hurt Terri. I never wanted
20 anything that happened. I never wanted it to happen.

21 SGT. SANFORD: Q. After you had heard from
22 various people these remarks that Terri was making, did you
23 say something to Randy?

24 A. I told Randy that there was somebody that is spreading
25 rumors, but I didn't tell him because --

26 Q. Did you ask him if he said anything to Terri about your
27 relationship?

A. No, because I know he didn't.

1 Q. Had you told anybody yourself about the relationship
2 you were having with Randy?

3 A. Yes, I told my skating teacher Sherri Newell. That was
4 one of the persons who I had went to live with at the time.
5 I was having these problems with Randy because Sherri
6 Newell is very, very close with me. And I have always been
7 always been able to talk to her. And she understood and I
8 ended up living with her for a couple months, just to get
9 out of my house because I never was too good -- my father
10 and I just kind of had our difficulties.

11 Q. Did anybody else know about the relationship between
12 you and Randy?

13 A. Nobody besides, you know, my mother.

14 Q. You told your mother as far as the relationship?

15 A. Yeah, I didn't tell my mom we were having a
16 relationship. I told her we were having problems and
17 that's -- I'm sure she knew, you know, we were, but I never
18 said "Mom, we are having a sexual relationship." I told
19 her I was feeling that way towards him, though.

20 Q. Okay. Now, you said a few days before this Thursday
21 incident, January 8th, you talked to your cousin Michael
22 Morales?

23 A. Yeah.

24 Q. About this, what you had heard?

25 A. Yeah.

26 Q. What Terri was saying?

27 A. Yeah.

28 Q. What did you two discuss when you told him about it?

1 A. We discussed -- well, it wasn't really -- I wasn't in
2 the discussion, but like I said, you know, Mike being the
3 type of person he is, violence came out right away. You
4 know?

5 Q. Did you tell him she called you a faggot?

6 A. Yeah, I think so, I'm pretty sure.

7 Q. Did you tell him as far as the relationship that you
8 were having with Randy?

9 A. Did I tell him about it?

10 Q. Yes.

11 A. I told him we were having feelings for each other, but
12 no, I never told him we were.

13 Q. What did Michael tell you?

14 A. About what?

15 Q. About getting back at Terri for saying these things?

16 A. Like I said, he said we could either get the house or
17 we could get her.

18 Q. Was anything else decided at that point as to what, if
19 any action, would be taken?

20 A. No. No.

21 Q. It was kind of dropped?

22 A. Well, it would be dropped for a few days, then -- well,
23 not for a few days, but it would be dropped and it would be
24 brought up again and we would talk about it and it was
25 discussed that if we could, you know, pick her up and, you
26 know, take her somewhere and, it was never discussed from
27 me, on my part or really or on Mike's part, I don't know
what he had in mind, but it was never to have Terri killed.

Exhibit 27

Declaration of Pablo Stewart, M.D.

DECLARATION OF PABLO STEWART, M.D.

I, Pablo Stewart, declare as follows:

1. I am a physician licensed to practice in California, with a specialty in clinical and forensic psychiatry.

2. I hold a Bachelor of Science Degree from the United States Naval Academy, Annapolis, Maryland, which I obtained in 1973, with a major in chemistry. I received my Doctor of Medicine Degree from the University of California, San Francisco, School of Medicine in 1982. In 1985, I received the Mead-Johnson American Psychiatric Association Fellowship for demonstrated commitment to public sector psychiatry and was selected as the Outstanding Psychiatric Resident by the graduating class of the University of California, San Francisco, School of Medicine. In 1985-1986, I was the Chief Resident, Department of Psychiatry, University of California, San Francisco, General Hospital and had direct clinical supervision of seven psychiatric residents and three to six medical students.

3. Throughout my professional career, I have had extensive clinical, research, and academic experience in the diagnosis, treatment, and prevention of substance abuse and related disorders, including diagnostic, treatment, and community care programs for persons with Major Depressive Disorder and Post Traumatic Stress Disorder, the management of patients with dual diagnoses and the application of psychotropic medication, and the history and use of psychotropic medications in institutionalized populations. I have designed and taught courses on the protocol for identifying and treating psychiatric patients with substance abuse histories and have supervised psychiatric residents in teaching hospitals. I have worked closely with local, state and federal governmental bodies to design and present educational programs about psychiatry, substance abuse, and preventative medicine.

4. I have presented numerous papers before mental health professionals, prosecuting and defense attorneys, probation officers, and judges, and have published in

professional and peer-reviewed journals on topics including dual diagnosis, mental illness, alcohol and drug abuse, and the treatment of substance abuse. These presentations and publications include: "Cultural Considerations in Working with the Latino Patient" (2002); "Psychiatric Complications of the Methamphetamine Abuser" (2001); "The Assessment, Diagnosis, and Treatment of the Patient with Multiple Disorders" (2001); "Co-Occurring Disorders: Substance Abuse Treatment" (2000); "The Dual-Diagnosed Client" (2000); "Mental Illness and Drug Abuse" (1999); "Alcoholism: Practical Approaches to Diagnosis and Treatment" (1999); "Criminal Justice and Substance Abuse" (1999); "Alcoholism: Practical Approaches to Diagnosis and Treatment" (1999); "Impulse Control Disorders" (1999); "Major Depressive Disorder" (1999); "Substance Abuse and Major Depressive Disorder" (1999); "Substance Abuse and Major Depressive Disorder" (1998); "Mental Illness and Substance Abuse Assessment: Diagnosis and Treatment Planning for the Dually Diagnosed" (1998); "Assessment of Substance Abuse" (1995); "Attention Deficit Disorder, Substance Abuse, Psychiatric Disorders and Related Issues" (1994); and "Psychotic Conditions and Substance Use: Prescribing Guidelines and Other Treatment Issues" (1991).

5. I am currently a Diplomate of, and have served as an Examiner for, the American Board of Psychiatry and Neurology. I am active in several professional associations and have served as the President, Secretary-Treasurer, and Councilor-At-Large of the Alumni-Faculty Association, University of California, San Francisco, School of Medicine; Vice President of the Northern California Area, Alumni-Faculty Association, University of California, San Francisco; and Associate Clinical Member of the American Group Psychotherapy Association.

6. Since 1986, I have held academic appointments as Associate Clinical Professor, Assistant Clinical Professor, and Clinical Instructor in the Department of Psychiatry, University of California, San Francisco, School of Medicine. I received the Henry J. Kaiser Award for Excellence in Teaching in 1987 and was selected by the

graduating class of the University of California, San Francisco, School of Medicine as the outstanding psychiatric faculty member for the academic years 1988-1989, 1990-1991, and 1994-1995. I designed, planned, and taught "Drug and Alcohol Abuse" and "Alcoholism," one-unit courses covering major aspects of drug and alcohol abuse; supervised fourth year medical students in the care of dually diagnosed patients at the Psychiatric Continuity Clinic, Haight Ashbury Free Clinic; facilitated a weekly psychiatric intern seminar on "Psychiatric Aspects of Medicine," and lectured on addictionology and substance abuse to the School of Pharmacy, University of California, San Francisco.

7. I have held numerous positions with responsibility for ensuring the quality of clinical services provided by inpatient and community based programs. From 1997 to 1998, I was Director of Clinical Services for San Francisco Target Cities Project. I also served as Medical Director of the Comprehensive Homeless Center, Department of Veterans Affairs Medical Center in San Francisco, where I had overall responsibility for the medical and psychiatric services at the Homeless Center; Chief of the Intensive Psychiatric Community Care Program, Department of Veterans Affairs Medical Center in San Francisco, a community-based case management program; Chief of the Substance Abuse Inpatient Unit, Department of Veterans Affairs Medical Center in San Francisco, where I had overall clinical and administrative responsibilities for the unit; and Psychiatrist, Substance Abuse Inpatient Unit, where I provided consultation to the Medical/Surgical Units regarding patients with substance abuse problems. I served as a Physician Specialist to the Westside Crisis Center, San Francisco, from 1984 to 1987, and to the Mission Mental Health Crisis Center from 1983 to 1984. I am currently the Chief of Psychiatric Services at Haight Ashbury Free Clinic, a position I have held since 1991.

8. From 1988 to 1989, I was Director, Forensic Psychiatric Services for the City and County of San Francisco, where I had administrative and clinical responsibilities for psychiatric services provided to the inmate population of San Francisco. My duties

included direct clinical and administrative responsibility for the Jail Psychiatric Services and the Forensic Unit at San Francisco General Hospital. From 1986 to 1990, I was Senior Attending Psychiatrist, Forensic Unit, University of California, San Francisco, General Hospital where I was responsible for a twelve-bed maximum-security psychiatric ward. My duties in that position included advising the San Francisco City Attorney on issues pertaining to forensic psychiatry.

9. I served as psychiatric consultant to the Institute on Crime, Justice and Corrections at George Washington University, which monitored the agreement between the United States and the State of Georgia to improve the quality of that State's juvenile justice facilities, critical mental health, medical and educational services and treatment programs. I also serve as a Technical Assistance Consultant to the Center for Substance Abuse Treatment; Substance Abuse and Mental Health Services Administration, Department of Health and Human Services; and as Psychiatric Consultant to the San Francisco Drug Court. I was qualified as a Psychiatric Expert witness in federal court in *Madrid v. Gomez*, concerning the implementation of constitutionally mandated psychiatric care at Pelican Bay State Prison.

10. I have been asked by the attorneys representing Michael Morales to evaluate his polydrug use history, and to explain the behavioral impacts of substances used by him in the months, weeks, and hours before the capital crimes of which he was convicted. In order to accomplish these tasks, I conducted a clinical evaluation of Mr. Morales at San Quentin State Prison, and reviewed a number of social history records including probation reports, prison records, sworn statements of individuals familiar with Mr. Morales's substance abuse, and excerpts of the testimony presented at his trial.

11. Mr. Morales experimented with alcohol, in the form of beer, during his early adolescence. Beginning at the age of approximately 16, he began to associate with older individuals who exposed him to fortified wines and binge consumption of beer. Mr. Morales's reaction to being intoxicated varied from affable to aggressive, with

increased aggressiveness – and subsequent impaired memory – appearing to have been dose-related. By the age of 19, Mr. Morales had been introduced to the use of “reds” (Seconal, a potent barbiturate), “bennies” (Amphetamine), “beans” (Dexedrine), LSD, heroin, marijuana and PCP (Phencyclidine). He describes his first experience with PCP as producing a dissociative anesthetic effect, which prevented him from feeling anything as he repeatedly struck his chain-link steering wheel with his bare hand. The intoxication also produced a transitory psychotic state during which the voices of the other customers at a shopping mall sounded muffled, distant and coming from unknown directions. Mr. Morales was unable to determine whether he was moving, or at what speed or in which direction; he felt that he might fall at any moment. By pressing himself against a wall, and with the assistance of his cohorts, he was able to make his way back to his car. He then sat for what seemed like hours, but was not able actually to determine how long, before he eventually managed to drive home.

12. Until his arrest in January 1981, Mr. Morales continued to abuse PCP, as well as alcohol and marijuana cigarettes soaked in embalming fluid. The inhalation of embalming fluid produces PCP-like effects, including visual and auditory hallucinations, feelings of invincibility, pain tolerance, anger, paranoia, and memory problems. Raquel Cardenas, Mr. Morales’s girlfriend for approximately six months before the capital crimes, describes his drug and alcohol abuse as “very serious” during that time. He is described as exhibiting behavioral changes while ingesting alcohol and drugs akin to “an allergic reaction,” with even relatively small amounts of alcohol and PCP producing changes in posture, facial contortions, tensed muscles, agitation and physical aggression. By contrast, Ms. Cardenas never observed Mr. Morales to act aggressively or violently when he was not intoxicated with alcohol or PCP.

13. Ms. Cardenas’s recollection is congruent with descriptions of Mr. Morales’s substance abuse patterns provided by two close friends, Manuel Vasquez and Julio Marquez. Both men report consistent, chronic, heavy use of PCP and embalming

fluid soaked marijuana cigarettes, as well as corroborating Mr. Morales's earlier use of LSD and amphetamines. Mr. Marquez also confirms Mr. Morales's report of abusing PCP during the week preceding the crime. Lillie Garcia, the mother of Mr. Morales's daughter, paints a graphic picture of the long-term chronicity of Mr. Morales's drug abuse and addictions.

14. On January 15, 1981, during Mr. Morales's post-arrest intake interview with an investigator employed by his court-appointed counsel, he reported that on the date of the capital crimes he smoked half of a PCP "joint" and drank "a lot" of wine and beer. This self-description was confirmed by Ms. Cardenas, who observed Mr. Morales drink a bottle of Thunderbird wine just before he left the apartment on the date of the offense, and further observed that Mr. Morales's demeanor mirrored his appearance when he was under the influence of PCP. Patricia Santiago Flores, the women in whose house Mr. Morales was living, also reports that on the day of the offense Mr. Morales smoked PCP, after which Rick Ortega provided him with a bottle wine that he consumed.

15. Mr. Morales experienced a surreal quality to the environment when Mr. Ortega picked him up with Terri Winchell in his car. Mr. Ortega's and Ms. Winchell's voices had the same muffled, distant sound of the voices Mr. Morales heard at the mall the first time he ingested PCP, and he felt himself becoming increasingly agitated and paranoid. Later, Mr. Morales had only fragmentary memories of the ensuing assault: He described putting a belt around Ms. Winchell's head or neck, and striking her, but he did not recall the number of blows or how long the assault continued, and had no recollection of anything that occurred outside of the car.

16. After Mr. Morales returned to the house he shared with Ms. Santiago Flores, the occupants of the house – Ms. Santiago Flores and Ms. Cardenas – observed signs of intoxication from alcohol and PCP. Mr. Morales was verbally aggressive, hyper, loud, and "crazy, like he always acted when he had been drinking and smoking PCP." Ms. Santiago Flores also observed abnormal eye movements and that Mr. Morales was

bumping into walls and furniture. Both the abnormal eye movements and lack of coordination or unsteady gait are known to be among the outward manifestations of heavy PCP intoxication.

17. PCP, the drug that Mr. Morales primarily abused, is referred to first and foremost as a psychotomimetic, i.e., a substance that induces psychosis. The hallmark of its cognitive and behavioral impacts is the ease with which users misinterpret or lose contact with reality. Physically disorienting, dissociative anesthetic effects further operate to make persons under the influence of PCP feel disconnected from their environment, and may produce random, violent, bizarre acts. These reactions are not necessarily dose-related and are variable through time. The drug affects each individual differently and produces varying, unpredictable reactions in the same individual on different occasions. Psychotic mental states and grossly abnormal conduct may occur in anyone using the drug.

18. The psychomotor effects, strong dissociation of mind and body, and bizarre, psychotic or violent behavior associated with PCP intoxication may leave users capable of physical activities involving gross and fine motor functions that are performed independent of and unmediated by the judgment and reasoning functions of the frontal lobes of the brain. An individual may be capable of describing his or her action, even while lacking an appreciation of the nature of the activity.

19. PCP is unique in that it can remain in the human body for many months, even years. Long after it is no longer detectable in the bloodstream or urine, PCP is stored in the brain and the body's fatty tissues and may be released spontaneously back into the blood stream. A variety of factors trigger such a release, including dehydration, physical exertion, alcohol consumption and inadequate nutritional intake.

20. Because PCP is stored in the brain and body fat, smoking a relatively small amount may produce intoxication-related psychosis more rapidly in the chronic user as compared to a first-time user. There is no standardized physiological level of

PCP that correlates to PCP intoxication or that predictably results in distorted behavior. Some PCP intoxicated persons behave normally, while some users may overreact and engage in bizarre behavior.

21. Chronic abusers suffer severely impaired judgment, memory, and cognitive functioning. They experience time distortions and have grey-outs, as opposed to whole blackouts, after which the chronic abuser has "flickering memories," of an incident in which he remembers one event and then another, but not the time period between the two. Individuals who experience gray-outs frequently resort to secondary memory techniques – usually talking to others – to figure out what happened during the time gap for which they have no memory.

22. The consumption of alcohol along with PCP produces a synergistic effect, resulting in user reactions that may be stronger than the expected reaction to the consumption of only one intoxicant. Alcohol, like PCP, suppresses the inhibitory functions of the frontal lobes, impairs judgment, distorts perceptions of reality, exacerbates impulsive reactions, and compromises working, short-term and long-term memory.

23. The facts of the offense as reported by Rick Ortega, witness observations of Mr. Morales and his own limited recall of events all provide consistent indications that the synergistic effects of PCP and alcohol resulted in a psychotic, disinhibited state during which Mr. Morales was not wholly aware or in control of his actions. Mr. Morales's already altered mental status was significantly compromised by the rapidity with which he consumed a large quantity of a high potency alcoholic beverage. In turn, he responded on a purely reactive level to his paranoid interpretations of Rick Ortega's and Terri Winchell's behavior, and was unable accurately to perceive, assess, or calibrate the nature of his reaction. Mr. Morales's admission of guilt, in the face of his limited recall of the details of the offense, is medically explainable by the fact that the effects of PCP would have disconnected him from a physical awareness of the assault. The

partially amnesic quality of his recollections is further consistent with the effects of PCP and alcohol in substantially impairing his conscious awareness of events, and raises the possibility that his description of his own conduct is the product of suggested or adopted memory of events.

I declare under penalty of perjury, under the laws of the State of California and the United States of America, that the foregoing is true and correct.

Executed this 27TH day of January, 2006, at San Francisco, California.

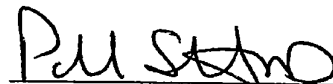

PABLO STEWART, M.D.

Exhibit 28

**Declaration of Luana Horstkotte with Exhibit A – August 21,
1992**

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1 the day that it was filled out. Based upon my custom,
2 practice, and habit in this regard, the Face Sheet attached as
3 Exhibit "A" would have been given to Craig Holmes, the attorney
4 handling this case, on either January 15, 1981 or on the
5 following day.

6 5. With respect to the information provided to me,
7 by Michael Morales which is recorded on this Face Sheet, I have
8 no reason to believe that his answers were not complete and
9 honest.

10 6. On page two of the Face Sheet attached as
11 Exhibit "A" is a heading "Drinking and/or Drugs". I filled in
12 the following information under that heading: "wine & beer -
13 unk. amt. (a lot) 1/2 jt. kj". The meaning of this notation is
14 that on January 15, 1981, Michael Morales advised me that on
15 the date of the offenses for which he was charged, he had
16 consumed wine and beer in an unknown amount; however, he had
17 consumed a significant amount. In addition, he reported
18 consuming a half joint of kj. My understanding of his use of
19 the term "kj" was that he had consumed a joint or cigarette
20 which had been laced with phencyclidine, i.e., "pcp".

21
22 I declare under penalty of perjury that the foregoing
23 is true and correct. Executed on August 21, 1992 in Contra
24 Costa County.

25 
26 LUANA HORSTKOTTE
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U/

FILE NO.

NAME AS CHARGED Michael Angelo Morales				TRUE NAME	
ALIASES - NICKNAMES "Mike"				SOCIAL SECURITY NO. unk	
STREET ADDRESS 8885 Kude				APT. - ROOM NO. CITY & STATE SAK	
TELEPHONE - MESSAGE NO. unk				PHONE OWNED BY	
SEX M	HEIGHT 5'9"	WEIGHT 135	EYES brn	HAIR blk	COMPLEXION med / olive
AGE 21	D.O.B. 10-17-59	BIRTH PLACE CO		CITIZENSHIP U.S.	
CURRENT RESIDES WITH Pat Flores friend				CLIENT'S CHILDREN AT HOME NUMER: 3 AGES: 13 elsewhere	
AT PRESENT ADDRESS YES: no NO: 1		IN COUNTY 7mos	IN STATE 21 mos	P.O. LIST: unk	
SPOUSE:		ADDRESS:		PHONE:	
FATHER:		ADDRESS:		PHONE:	
MOTHER:		ADDRESS:		PHONE:	
MARITAL STATUS: single					
MILITARY YES:	BRANCH	NO. OF RECORDS	TYPE OF DISCHARGE	EDUCATION	PLACE
YES:				11	Grider Valle
MENTAL DISORDERS		CONFIRMED AT	HOW LONG	RELEASE DATE	RECENT MEDICAL PROBLEMS
DATE	NO:	JURISDICTION	OFFENSE	DISPOSITION	STREET
1979	aj	Sta	459 PC	1 yr local	175
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OTHER CHARGES PENDING none		JURIS.	HOLDS		
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DATE OF INTERVIEW 11/2/81					
PLACE Clare		INTERVIEWER Luana			

Exhibit 29

Declaration of Julio Marquez – June 4, 1992

DECLARATION OF JULIO MARQUEZ

I, Julio Marquez, declare and state:

1. I have personal knowledge of the facts set forth in this declaration and could competently testify to them if called as a witness.

2. I currently reside at 2090 East Tenth Street, Stockton, California 95206. I have known Michael Angelo Morales since approximately 1978 when I was 16 years old. I always have considered Mike a personal friend of mine. I have not seen Mike since the week he was arrested.

3. During the years prior to Mike's arrest, I frequently socialized with him. During the months prior to his arrest, I would see Mike at parties and at various friends' houses as often as once per week.

4. I last saw Mike the week that he was arrested. I am informed and thereon believe that Mike was arrested on January 10, 1981. During the days prior to January 10, 1981, I personally observed Mike smoking "kj" on at least two occasions. "Kj" is PCP powder sprinkled on parsley which is rolled into a joint or cigarette.

5. I remember seeing Mike smoking "kj" outside Herman "Popsie" Marquez' apartment on Popular Street in Stockton at a New Year's party on the days preceding his arrest. Because it was a New Year's party, the date must have been January 1, 1981.

1 6. After that occasion, during January 2 and
2 January 3, 1981, I was with Mike at the duplex where I lived on
3 Center Street in Stockton. At that time, I personally observed
4 Mike smoking "kj". I specifically remember this party because
5 my girlfriend had cooked Menudo, and Mike, some of our other
6 friends, and myself shared it at that time. Menudo is a
7 popular Mexican recipe which my girlfriend only cooked for me
8 on that one occasion.

9 7. During the months preceding Mike's arrest, Mike
10 smoked "kj" numerous times in my presence. Mike smoked "kj" in
11 my presence whenever it was available, including as often as
12 several times per week during the months preceding his arrest.
13 Mike also regularly drank alcohol in my presence, including
14 Thunderbird wine and Budweiser beer. During the year prior to
15 Mike's arrest, I also observed him consume "acid" or LSD, and
16 frequently saw him smoke "Shermans". I am informed, and
17 thereon believe, that a "Sherman" is a cigarette which is
18 dipped in embalming fluid.

19 8. During the months preceding Mike's arrest, I
20 personally observed him frequently socializing with Manual
21 Vasquez and Paul Coronado.

22
23 I declare under penalty and perjury that the
24 foregoing is true and correct. Executed in San Joaquin County,
25 California on June 4, 1992.

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JULIO MARQUEZ

Exhibit 30

Declaration of Manuel Franco Vasquez – August 29, 1992

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DECLARATION OF MANUEL FRANCO VASQUEZ

I, Manuel Franco Vasquez, declare and state:

1. I have personal knowledge of the facts set forth in this declaration and could competently testify to them if called as a witness.

2. I currently reside at New Folsom Prison, P.O. Box C-11514, A2 206L, Repressa, California 95671. I have been convicted of violating California Penal Code section 187, second degree murder, and currently am serving a sentence of 15 years to life in prison.

3. I have known Michael Angelo Morales since approximately 1977 or 1978 when I was about 18 years old. My date of birth is May 29, 1959. I have considered Mike a close personal friend of mine since that time.

4. From approximately 1979 until the date of Mike's arrest (which I am informed and thereon believe was January 10, 1981), I frequently socialized with him. At various times during the months prior to Mike's arrest, he lived with me at my mother's apartment in Stockton. This apartment was in the JOJ apartments behind Oak Park. I frequently socialized with Mike during that time, and I was with Mike at parties and at various friends' houses as often as three or four times per week.

5. I last saw Mike around Christmas of 1980. I specifically remember the occasion because Mike was with me when I was arrested for an alleged armed robbery of a Jack-in-

1 the-Box restaurant in Stockton. I specifically remember being
2 arrested for this incident because I was innocent of these
3 charges, and I should not have been arrested. These charges
4 against me ultimately were dropped by the District Attorney.
5 As a result of that arrest, I remained in the San Joaquin
6 County Jail from the date of my arrest around Christmas of
7 1980, until after Mike's arrest in early January, 1981.

8 6. In the days prior to Christmas, 1980, I
9 personally observed Mike smoking "kj" on several occasions.
10 "Kj" is PCP powder sprinkled on marijuana, tobacco, or parsley,
11 which then is rolled into a joint or cigarette.

12 7. On the night of my arrest, I personally observed
13 Mike smoking a "Sherman". A "Sherman" is a cigarette or a
14 marijuana joint which is dipped into chemicals, which I
15 understand, include embalming fluid and ether. "Shermans"
16 filled with marijuana were referred to as "Lovelies", and
17 "Shermans" filled with cigarette tobacco were referred to as
18 "Super Cools". I specifically remember Mike smoking a
19 "Sherman" on the night of my arrest around Christmas, 1980
20 because I was with Mike when he obtained the "Sherman", and
21 after Mike consumed the cigarette, he was passed out in my car
22 when the police pulled me over and arrested me.

23 8. Approximately three weeks prior to my arrest, I
24 was with Mike when he obtained approximately five "kj" joints
25 at the residence of a person whose name, based upon my best
26 recollection, is "Robert" or "Mike" Vasquez. Mike consumed
27
28

1 these "kj" joints in my presence, and also shared other "kj"
2 joints with other people during the three weeks prior to my
3 arrest. I specifically remember Mike acquiring these "kj"
4 joints because they were obtained, along with handfuls of
5 "Christmas Trees", which are pills that also are referred to as
6 "speed", as repayment for certain debts or favors owed by
7 Vasquez to several of my friends.

8 9. On the two evenings prior to my arrest, I was
9 in Mike's presence and personally observed him smoking "kj".
10 Mike smoked "kj" in my presence whenever it was available,
11 including as often as several times per week between the time
12 we became close friends in 1979 until the date of my arrest in
13 December, 1980. Mike also regularly became intoxicated in my
14 presence after drinking Thunderbird wine and Budweiser beer. I
15 also saw Mike consume "Christmas Trees" or "speed", "acid" or
16 "LSD", and I frequently saw him smoke "Shermans". Mike
17 regularly used various types of illegal drugs that were
18 available on the street, and I personally observed him do this
19 three or four times per week during 1980.

20
21 I declare under penalty and perjury that the
22 foregoing is true and correct. Executed in Sacramento County,
23 California on August 29, 1992.

24 *Manuel Franco Vasquez*
25 MANUEL FRANCO VASQUEZ
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Exhibit 31

Transcript of Trial Testimony of Bruce Samuelson

AS
"Samuelson's Testimony"
6017b

1 A. Yes, sir, they do.

2 Q. Thank you.

3 MR. GARBER: Nothing further.

4 THE COURT: Recross?

5 MR. HOLMES: No.

6 THE COURT: May the Court excuse the witness?

7 MR. GARBER: No objection.

8 THE COURT: Mr. Holmes?

9 MR. HOLMES: No objection.

10 THE COURT: All right. Thank you, sir. You are excused.

11 MR. GARBER: Bruce Samuelson.

12 THE CLERK: Step forward, sir. That's fine, sir. Right
13 there.

14 Would you raise your right hand?

15
16 BRUCE ALLEN SAMUELSON,
17 having been called as a witness on behalf of the People, was
18 sworn and testified as follows:

19
20 THE WITNESS: Yes, ma'am.

21 THE CLERK: Would you be seated, please, in the witness
22 stand and state your name?

23 THE WITNESS: Bruce Allen Samuelson.

24 THE CLERK: Spell your last name.

25 THE WITNESS: S-a-m-u-e-l-s-o-n.
26

27 DIRECT EXAMINATION
28

1 BY MR. GARBER:

2 Q. How old are you?

3 A. 22 years.

4 MR. HOLMES: Sorry. Didn't hear the answer.

5 THE WITNESS: 22 years of age.

6 BY MR. GARBER:

7 Q. Do you know Mike Morales?

8 A. Yes, sir, I do.

9 Q. When did you first meet him?

10 A. Approximately March or April of 1982.

11 Q. Where was it that you met him?

12 A. In the maximum security section of San Joaquin
13 County jail.

14 Q. What were you doing in the county jail at that
15 time?

16 A. Serving a one year sentence on a burglary
17 conviction.

18 Q. Was that a felony or misdemeanor?

19 A. Felony.

20 Q. And had you been convicted of anything else at that
21 time?

22 A. No, sir.

23 Q. Okay. So it was one count of burglary, a felony?

24 A. Actually it was two on the same complaint.

25 Q. Okay. Two counts of burglary, a felony?

26 A. Yes, sir.

27 Q. Is that first or second degree?

28 A. Second degree.

1 Q. And how was it that you came to meet Mr. Morales?

2 A. I was -- I had certain privileges as an officer's
3 cook to go down into this maximum security section to take items
4 that were issued out by the jail down to certain inmates and I
5 happened to have contact with another inmate that wanted to
6 deliver some pens and envelopes down to Mr. Morales for drawing
7 to have some type of art work done on them.

8 Q. So did you do anything along those lines?

9 A. I delivered it to him. I delivered the items to
10 him.

11 Q. How often would you do that?

12 A. It happened twice. About the third week I was the
13 officer's cook and about the final week I was there before I
14 transferred to the honor farm.

15 Q. When were you released from the jail at that time?

16 A. June 2nd, 1982.

17 Q. And did you get arrested again sometime after that?

18 A. Yes, sir. On November 3rd, 1982 in State of
19 Arizona.

20 Q. Was that on a California charge?

21 A. Yes. Possession of stolen -- of a stolen vehicle.

22 Q. And were you then brought back to Stockton?

23 A. Yes. On --

24 Q. What were you charged with?

25 A. One count of vehicle theft, two counts of receiving
26 stolen property and three counts of forgery.

27 Q. Are those charges still pending against you?

28 A. All but one of the forgeries.

- 1 Q. So you are charged with two forgeries, auto theft
2 and --
- 3 A. Two counts of receiving.
- 4 Q. -- receiving stolen property?
- 5 A. Yes, sir.
- 6 Q. Okay. Have you been in custody since then?
- 7 A. Yes.
- 8 Q. Are you in custody today?
- 9 A. Yes.
- 10 Q. When did you get back to Stockton?
- 11 A. November 10th, 1982.
- 12 Q. Where did they put you in the jail?
- 13 A. In protective custody down in the maximum security
14 section in cell block eight.
- 15 Q. How long did you stay in that area?
- 16 A. Approximately 30 days.
- 17 Q. What was the cell you were first placed into?
- 18 A. Cell 14.
- 19 Q. How long did you stay in cell 14?
- 20 A. Approximately three hours.
- 21 Q. Why was it that you were moved out of it?
- 22 A. I had a toilet and sink that were non-useable.
- 23 Q. What cell did they put you in after that?
- 24 A. Cell 12.
- 25 Q. And was there anyone that you knew near cell 12?
- 26 A. Across from me at a slight angle was Mr. Morales.
- 27 Q. Do you see Mr. Morales in court?
- 28 A. Yes, sir.

1 Q. Would you point at him, please?

2 A. He is sitting right over here next to counsel.

3 MR. GARBER: Could the record reflect he has identified
4 the defendant?

5 THE COURT: Yes.

6 BY MR. GARBER:

7 Q. How far was Mr. Morales from you at that time?

8 A. The distance between the bars was approximately
9 about four and a half feet.

10 Q. Did you have a conversation with him when you
11 arrived at that time?

12 A. A brief statement.

13 Q. What was the nature of that?

14 A. A greeting of hi or hello and from the response
15 from him once I was put in my cell, the original cell, was "What
16 in the heck are you doing back in jail?"

17 Q. Did you have some further conversation with him?

18 A. Yes. Regarding the non-functioning toilet and sink
19 and --

20 Q. That was on first cell?

21 A. Yes.

22 Q. Okay. What about when you got into cell 12?

23 A. Well, on about November 11th, the following day, we
24 had occasion to discuss some technicalities about his case after
25 I returned from court.

26 Q. Did you have your own attorney in court at that
27 time?

28 A. No, sir. I was representing myself pro per.

1 Q. You were your own attorney?

2 A. Yes, sir.

3 Q. So what was the discussion that Mr. Morales had
4 with you at that time?

5 A. I -- it was on -- regarding possible defense mot --
6 actions on behalf of the defense to exclude certain witnesses by
7 a statement, by actions and by time approximations.

8 Q. Did he tell you anything about his case at that
9 time?

10 A. Yes, he did.

11 Q. What did he tell you?

12 A. In regards to the case itself, it was -- first
13 thing that he told me was about the phone calls that were made
14 prior to the homicide that occurred.

15 Q. What did he tell you about them?

16 A. That his cousin, Ricky Ortega, had called him
17 and -- from the restaurant --

18 MR. HOLMES: I will object to the statements as hearsay
19 and request that some foundation be made in terms of the
20 competency of this witness to testify. I think there is an
21 obligation on the Court to determine the initial credibility of
22 this witness in this sort of situation prior to his testimony.

23 MR. GARBBER: Your Honor, I think this is admissible as
24 admissions and confessions against a criminal defendant. I
25 don't think there is any basis to exclude the witness.

26 THE COURT: I really don't understand the objection as to
27 competency.

28 MR. HOLMES: I think that the Court, under these sort of

1 circumstances where you are talking about an individual in
2 custody and testifying under these circumstances for -- for
3 leniency or favors, the Court should make a preliminary fact
4 finding prior to permitting the witness to testify.

5 THE COURT: It's not my understanding of the law. Both
6 objections are overruled. Court will receive the statements
7 under 1220 of the Evidence Code. You may cross examine on those
8 matters, though.

9 BY MR. GARBER:

10 Q. What did he say about this phone conversation?

11 A. The first phone call he stated came from the place
12 of employment by his cousin, a restaurant, and it was to the
13 context that they were going to meet with this -- with the
14 victim and then he said approximately a half hour later he
15 received another phone call, this time from the Weberstown Mall
16 area that he -- that the cousin had picked up the girl and was
17 enroute to the house.

18 Q. What did he say happened then?

19 A. That upon arrival to the house one of the female
20 attendants in the house was asked to go to the store to purchase
21 some liquor or other article from the store, and at that time he
22 had prepared or had gone out in preparation with a belt that he
23 was wearing, a small thin belt, a kitchen knife and a hammer
24 and --

25 Q. Did he tell you what happened after that?

26 A. Yes. They took off in a car northbound towards
27 Lodi, and instead of going through a -- on the freeway they went
28 through town and waited until they got on the outskirts where

1 they were out of earshot or hearing distance from anybody else.

2 Q. Did he tell you why that was done?

3 A. To avoid detection from any outside source.

4 Q. Did he say what happened then?

5 A. Yes. As they were driving he attempted to strangle
6 her with this belt.

7 Q. Did he say what happened?

8 A. The belt broke.

9 Q. Did he say what happened after that?

10 A. She fell forward unconscious and he attempted -- or
11 he grabbed her hair and pulled it back and her whole body and
12 started beating her over the head in the rear of her head with a
13 hammer.

14 Q. Did he say what she was doing at that time?

15 A. She was -- well, when he first attempted to
16 strangle her she was trying to ward off the belt in attempts to
17 grab it and pull it away and was also making noises, screaming
18 for help. And then upon the passing out or the unconsciousness,
19 when he started beating her with the hammer, she was already
20 unconscious so there was nothing that she could really say.

21

22

- -t- -

1 Q. Did he say what he did along the lines of hitting
2 her with the hammer?

3 A. He could not remember the amount of times, but he
4 said it was several blows, severe blows to the back of the head.

5 Q. What did he say then?

6 A. It had been approximately 15 minutes from the time
7 he left town to the completion of the blows, the last blow, and
8 he told his cousin to pull the car over and stop.

9 Q. What happened then?

10 A. He took the body out, dragged it face down across
11 the pavement, pulling by the feet and drug her to a field where
12 he proceeded to rape her. And he had been -- his exact words
13 were -- the thought that was in his mind --

14 MR. HOLMES: I'll object to the narrative form of the
15 answer here.

16 THE COURT: No. The objection is overruled.

17 You may continue your answer.

18 BY MR. GARBBER:

19 Q. What did he say?

20 A. The thought that had gone through his mind was
21 there was no use wasting a good piece of -- if it please the
22 Court -- a good piece of ass and that he would -- there was --
23 to the effect that he was going to bone it.

24 Q. Did he tell you what happened then?

25 A. Yes. He fulfilled the raping of her, of the girl,
26 and said that he stabbed her about four times and --

27 Q. Did he tell you why he did that?

28 A. Uh -- he wasn't -- as far as the stabbing, he

1 was -- the intent was to go out and kill her to begin with, and
2 he wanted to make sure.

3 Q. Did he tell you whether or not she was alive at
4 that point?

5 A. He really didn't know.

6 Q. What did he say happened after he stabbed her?

7 A. He got up, started to walk away and turned around
8 and called her a fucking bitch.

9 Q. What did he do then?

10 A. He met his cousin, who had been driving around
11 keeping point or watch for any persons in the vicinity and --
12 once he reached the car, he threw the weapons and the belt
13 into the trunk.

14 Q. What did he say happened after that?

15 A. They drove back into town and reached a -- went
16 back to the original house and, uh -- he went in to hide the
17 belt and to wash off the tools, the hammer and the knife. And
18 they were going to clean the car out.

19 Q. Did he tell you how that was done?

20 A. After they had cleaned the -- or after he had
21 cleaned the weapons off, gone back outside and they used a hose
22 and some rags.

23 Q. What took place then?

24 A. A -- one of the girls that were in the house, one
25 of the occupants -- actually there were two girls in there, one
26 by the name of Raquel and one by the name of Pat -- had been in
27 there.

28 He had dumped the purse on the table, and one of

1 'em went outside with him and questioned why he was using a
2 hose.

3 Q. Did he tell you anything else?

4 A. That he had placed the weapons -- one of the
5 weapons in the refrigerator.

6 Q. Do you recall which weapon that was?

7 A. I believe it was the knife.

8 Q. Did he tell you what happened after that?

9 A. Um -- he went to the store and bought -- I believe
10 it was two packs of cigarettes and a six-pack of beer and some
11 wine with approximately 11 dollars that came out of that purse.

12 Q. Now, when was this that he was telling you about
13 this incident?

14 A. Once he began, that was about the 15th of November
15 and concluded with -- oh, I'd say in approximately two weeks or
16 two-week period.

17 Q. Did he bring up the subject of Raquel and Pat again
18 with you?

19 A. Yes, he did.

20 Q. What was the nature of that conversation?

21 A. To eliminate their physical being in this court.

22 Q. What did he say about that?

23 A. We had read a book called Prescription Murder, and
24 it involved a case down in Texas in 1968 or 1969 where a doctor
25 injected --

26 MR. HOLMES: I'll object to this as hearsay.

27 MR. GARBNER: This has to do with explaining
28 conversation --

1 THE COURT: The objection is overruled. Please don't
2 respond to objections unless the Court asks for it.

3 THE WITNESS: It involved the case where a doctor
4 injected his first wife with a mixture of human feces that had
5 cultured over a period of time which went undetected upon an
6 autopsy. This was in order to marry another female and which he
7 tried to kill her with an injection of sodium -- I mean procaine
8 hydrochloride.

9 And Mr. Morales asked me if there was any
10 possibility that if I were to get an OR or to bail, if I would
11 take -- if I could assume the same situation with one of the
12 girls, particularly Raquel.

13 BY MR. GARBER:

14 Q. Did he tell you where you could get ahold of
15 Raquel?

16 A. He said her parents lived in Woodbridge,
17 California, and that she was probably there along with a younger
18 sibling and that if she wasn't, then she had relatives strung
19 out from Stockton or Woodbridge down to Los Angeles.

20 Q. Did he tell you how to get ahold of Pat?

21 A. He said that being that -- he complimented my
22 intelligence and said that I would probably be able to find out
23 myself because he didn't know where she was at.

24 Q. Now, in exchange for your agreeing to testify, have
25 you been offered anything from the San Joaquin County District
26 Attorney's office?

27 A. It was stated that they would recommend a one-year
28 county jail sentence with a felony conviction.

1 Q. As opposed to what?

2 A. Going to state prison.

3 Q. Is what you've told us here today, then, the truth?

4 A. Yes, sir.

5 Q. Thank you.

6 MR. GARBBER: Nothing further.

7 THE COURT: You may cross-examine, Mr. Holmes.

8

9

CROSS-EXAMINATION

10

11 BY MR. HOLMES:

12 Q. Mr. Samuelson, you said when all this took place
13 you were in cell what? 12?

14 A. Yes, sir.

15 Q. And Mr. Morales was in cell 10?

16 A. Yes, sir.

17 Q. So you --

18 A. No. Yes -- excuse me. Yes, he was in 10.

19 Q. Okay. So that's not directly across from each
20 other, is it?

21 A. No it's at a -- I'd say probably a 30 to 45-degree
22 angle.

23 Q. Okay.

24 Q. And cell 9 is directly across from cell 10; right?

25 A. No, sir, it isn't. They're both at angles.

26 They're staggered cells.

27 Q. Okay. Three on one side and three on another side?

28 A. Yes, sir, with alternating spaces.

1 Q. Okay. When you're not in jail, you live in
2 Stockton, don't you?

3 A. Oh, I have for the past six years.

4 Q. Okay. So in the early part of 1981, you were
5 living in Stockton; right?

6 A. Yes, sir.

7 Q. When this -- when this murder occurred?

8 A. Yes, I was.

9 Q. Uh-huh. So you -- you saw the publicity in the
10 local papers about it; right?

11 A. No, I didn't. I was not even aware of it until I
12 was incarcerated.

13 Q. That was in -- in when?

14 A. May 28th, 1981.

15 Q. Okay. So all this publicity that occurred that
16 resulted in this change of venue, you never saw any of it, then,
17 huh?

18 A. No, sir.

19 Q. Didn't read anything in the papers?

20 A. No. I don't get a subscription to the paper, and I
21 really don't care to read too many of the newspapers other than
22 the sports section.

23 Q. So you do buy a paper occasionally?

24 A. No. I read what's in a restaurant or wherever I'm
25 visiting.

26 Q. Okay. Do you ever watch television?

27 A. Not very often. The ESPN sports program station
28 and occasionally the World News Tonight.

1 Q. So you -- you've never really -- you never saw
2 anything in the paper or on television about -- about the case,
3 then?

4 A. No. I don't watch the local news, and I don't
5 listen to the radio.

6 Q. Okay. Your first -- after this -- this charge
7 occurred, you were in custody in March, were you not?

8 A. Yes, on a misdemeanor charge of petty theft.

9 Q. Okay. And you did 30 days on that; right?

10 A. Yes. Not on the petty theft. On -- it was a
11 contributing delinquency of a minor.

12 Q. Okay. So you were in jail for 30 days, the same
13 time Mr. Morales was, in March of '81; right?

14 A. I believe he was in jail at that time.

15 Q. And Mr. Ortega was in jail at that time also,
16 wasn't he?

17 A. I believe so. I didn't know either one of them at
18 the time.

19 Q. Okay. About what time in March was that that you
20 did that 30 days?

21 A. It was from March -- I believe it was the 18th till
22 the 16th of April.

23 Q. Okay. So that was around the time of the
24 preliminary hearing in this case; right?

25 A. I have no idea. I don't know when they held it.

26 Q. There wasn't any talk out at the jail about the
27 case, of course, was there?

28 A. Uh -- the only talk that was around the jail was

1 the fact that Michael Morales and Ricky Ortega were in jail for
2 suspicion of murder.

3 Q. But no details were ever mentioned?

4 A. I didn't engage myself in any conversation
5 regarding that case.

6 Q. You weren't the least bit curious about the case,
7 either, were you?

8 A. I was not familiar with it at all.

9 Q. And you didn't desire to become familiar with it,
10 though, did you?

11 A. No. I don't like to become familiar with too many
12 cases other than my own.

13 Q. Uh-huh. Okay.

14 Did you see any further news stories about the case
15 after the preliminary hearing?

16 A. I never -- no, I didn't.

17 Q. About the testimony at the preliminary hearing or
18 anything like that?

19 A. No, I didn't. As I said earlier, I don't pay any
20 attention -- too much attention to the news.

21 Q. Uh-huh.

22 Now, you -- you were released, then, some -- you
23 mentioned sometime in the middle of April, and then you were
24 arrested back in June --

25 A. May 28th.

26 Q. May 28th. Okay.

27 And you were back in the county jail; right?

28 -- same jail that Mr. Morales or --

1 A. Right now or at that time?

2 Q. At that time.

3 A. Yes, I was.

4 Q. Okay. And Mr. Morales was still there and Mr.
5 Ortega was still there?

6 A. I believe so.

7 Q. Okay. Now, you were arrested on four counts of
8 burglary at that time; right?

9 A. Yes.

10 Q. And you didn't post bail --

11 A. No.

12 Q. -- on that?

13 And that was May 28th, you said?

14 A. Yes, sir.

15 Q. Okay. And on that case, you -- you made a deal --
16 made a plea bargain and you pled guilty to two counts of felony
17 burglary, and they dismissed two counts of felony burglary;
18 right?

19 A. Yes, sir.

20 Q. Okay. And at that time of the plea bargain, you
21 were told that even though they were going to dismiss two counts
22 of burglary, the DA was still going to recommend prison with a
23 three-year state prison as a maximum; right?

24 A. No. The DA was in favor of a recommendation to a
25 return to the Youth Authority.

26 Q. There was no indication to you that the DA's
27 recommendation was a -- a three-year prison sentence, then?

28 A. The original recommendation was until we had a

1 formal pronouncement of judgment hearing.

2 Q. Okay. So when you entered the plea, though, there
3 was an indicated judgment of three years in prison; right?

4 A. A three-year suspended sentence and an alternate
5 sentence was the two years to the Youth Authority.

6 Q. No. My question is when you entered the plea,
7 wasn't there an indication to you that the maximum sentence
8 could be three years in the state prison?

9 A. Prescribed by law, yes.

10 Q. Okay. Then the judge, though, after a sentencing
11 hearing, decided to give you a break on the sentence owed you to
12 the Youth Authority, didn't he?

13 A. Yes, upon the recommendation of my parole officer.

14 Q. Okay. Your Youth Authority parole officer?

15 A. Yes, sir.

16 Q. Okay. So that a -- that occurred when?

17 A. Uh -- I don't remember the date of the P and J
18 hearing, but it was in the month of October.

19 Q. Okay. So you went to the Youth Authority, but the
20 Youth Authority rejected you; right?

21 A. No. A recommendation from the Court to receive me
22 from San Joaquin County back to the Youth Authority on a
23 violation and/or a new commitment was sent up there, and they
24 denied me because of lack of bed space and. Then further
25 revelation came was because I was not amenable to their
26 treatment.

27 Q. Okay. So the Youth Authority rejected you?

28 A. Yes.

1 Q. Sent you back to court then?

2 A. Yes.

3 Q. Okay. And at that point, the -- the judge, after
4 sentencing hearing, gave you another break and decided not to
5 send you to state prison; right?

6 A. Yes, sir.

7 Q. Okay. And what he did do, though, was give you a
8 year in the county jail; right?

9 A. Yes, with the waiving of my time served.

10 Q. Okay. Normally when a person does a year in the
11 county jail, they get credit for all the time they're in custody
12 from the date they're arrested up to the date they're sentenced;
13 right?

14 A. Yes, sir.

15 Q. And you were arrested, you said, on May 28th, and
16 the judge sentenced you to a year in jail October 1st; right?

17 A. I believe it was October 1st.

18 Q. So you were given a year in the county jail and not
19 sentenced to prison, on the condition, though, that you give up
20 your right to that five months of time that you normally would
21 have been entitled to; right?

22 A. Yes, sir.

23 Q. So you did a year from October 1st on, then; right?

24 A. Yes.

25 Q. So you were -- you were in jail, then, to -- from
26 May 28th till -- you say you were at least --

27 A. June 2nd of 1982.

28 Q. June 2nd, '82.

2 70 days
March 81
1 year
Oct 1, 81
Mar 82

1 And Mr. Morales was still in the jail; right?

2 A. Yes, sir.

3 Q. Mr. Ortega was still in the jail; right?

4 A. Yes.

5 Q. Okay. And when you were finally released from
6 jail, you had certain conditions of probation; right?

7 A. Yes, sir.

8 Q. And one of those conditions was that -- that you
9 report to your probation officer every month; right?

10 A. Yes, or some type of supplemental report.

11 Q. Uh-huh. And one of the conditions was that, of
12 course, you obey all laws; right?

13 A. Yes.

14 Q. And another condition was that you pay back the
15 restitution; right?

16 A. \$1,178.16.

17 Q. Okay. So those were all things you still had to do
18 or you could be sent back to prison if you violated that.

19 You could be sent to prison if you violated that
20 probation; right?

21 A. Or back to the jail.

22 Q. Okay. Now, in addition to getting arrested on some
23 new charges, you also have a probation violation filed against
24 you, do you not?

25 A. Yes. I was made aware of that about two months
26 after my arrest.

27 Q. Okay. That -- there was a probation hold placed on
28 you in November --

1 A. Yes --

2 Q. -- of '82. Right?

3 A. As far as I know, it was. I wasn't aware at the
4 time.

5 Q. Okay. A probation hold means that you can't bail
6 out; right?

7 A. For one year.

8 Q. Okay. And so the probation officer is alleging
9 that you didn't report for two months and that you didn't pay
10 anything on the restitution; right?

11 A. No.

12 Q. That's not part of the -- the probation violation.

13 A. No. The probation violation is that I broke a law.

14 Q. Okay. You mean these new charges that you've
15 got --

16 A. Yes, sir.

17 Q. -- currently pending?

18 A. That was added to a report as far as not paying the
19 restitution.

20 Q. Well, are you saying that that's an additional
21 violation of your probation?

22 A. No. She just -- it was a supplemental report.

23 Q. Okay. Well, are you saying that the only basis for
24 your probation being violated, then, to your knowledge, is that
25 you violated the law again?

26 A. Yes.

27 Q. Okay. So you're saying that one of the bases for
28 your probation being violated is not that you didn't report for

1 two months and not that you haven't paid anything on the
2 restitution?

3 A. There was no period in my probation -- or the time
4 that I was out on probation that I stayed out for two months
5 without reporting to her. No reason to violate me there.

6 I received a letter for not reporting within
7 immediately 15 days upon my release, and she told me a further
8 disobedience in that manner would result in violation.

9 Q. Doesn't your probation violation papers say you
10 didn't report in July and August?

11 A. No. It says I didn't report in July. Actually, I
12 believe it says that I was late in reporting in July.

13 Q. So you're facing -- or you could have faced at that
14 time possible sentence to prison for violating that probation;
15 right?

16 A. Yes, three years.

17 Q. And then you also, on these felony charges that you
18 picked up just five months after you were released, you faced
19 prison on those charges, too; right?

20 A. Yes, sir.

21 Q. Okay. The auto theft carries prison sentences of
22 16 months, two years or three years in prison; right?

23 A. Yes.

24 Q. And the receiving stolen property charges, they
25 each carry sentences of 16 months, two years or three years;
26 right?

27 A. Yes.

28 Q. And the forgery counts, they carry sentences of 16

1 months, two years or three years; right?

2 A. Yes, but not in consecutive terms.

3 Q. You're saying that none of those charges can be run
4 consecutively?

5 A. Well, they can, but I cannot receive -- I could
6 face -- I added it up somewhere around ten years plus the three
7 years violation.

8 Q. So all that together, your probation violation plus
9 these new charges, you say you can -- the maximum would be about
10 ten years; right?

11 A. 13 all together.

12 Q. Okay. 13 years, then.

13 So you've -- you figured with the fact that you
14 were given a break the last time by not being sentenced to
15 prison and being given the year in county jail and the fact that
16 you committed these -- these new charges so recently after being
17 released from jail and the fact that you were in violation of
18 your probation, you felt, did you not, Mr. Samuelson, that you
19 were certainly headed for prison at that point?

20 A. I was not sure. I felt that I still had a 50 -- 50
21 percent chance of being acquitted in court on the view of the
22 evidence.

23 Q. You figured, though, that you were going to
24 represent yourself, though, on these new charges; right?

25 A. Yes, sir.

26 Q. You thought you were -- you'd be clever enough to
27 do that without the necessity of having an attorney?

28 A. I would have an advisor, court-appointed advisor.

1 Q. The Court advised you you could have an attorney
2 represent you; right?

3 A. Yes.

4 Q. -- if you wanted to.

5 But you refused that; right?

6 A. Yes, I did.

7 Q. And you went through the municipal court
8 proceedings without an attorney?

9 A. Yes. I waived my preliminary hearing.

10 Q. Okay. And it was only in December of '82, the end
11 of December, that the superior court appointed you an attorney;
12 right?

13 A. Yes, December 28th.

14 Q. Okay. Now, December 28th, that's when the Court
15 appointed Mr. Schick to represent you; right?

16 A. Yes, on the order to show cause for violation of
17 probation.

18 Q. Okay. But it was prior to that time, though, that
19 you had had some discussions with Mr. Garber; right?

20 A. About two weeks.

21 Q. Okay. So while you were still representing
22 yourself, you were negotiating with the DA's office; right?

23 A. No. I had on one occasion made an attempt at
24 negotiation.

25 Q. Okay. Well, wasn't it December 6th that you
26 contacted Mr. Garber advising him you had some information about
27 this case?

28 A. Yes.

1 Q. Okay. And then December 9th, Sergeant Sanford came
2 out and talked to you. And then shortly thereafter, Mr. Garber
3 came out and talked to you; right?

4 A. On that occasion is when we were discussing
5 negotiation as to the prison sentence or the jail sentence in
6 lieu of the prison sentence.

7 Q. Okay. Now, in the past couple years, you spent
8 quite a bit of time out there at the county jail; right?

9 A. From which year are you referring to?

10 Q. Oh, since '81. You've spent quite a bit of time
11 out there; right?

12 A. Yes.

13 Q. So you're familiar with the fact that -- that
14 people charged with serious crimes, murder, especially death
15 penalty cases, very often get copies of the police reports in
16 their cases; right?

17 A. Anybody charged with a crime has availability to
18 those reports --

19 Q. Okay.

20 A. -- including myself or others that are charged with
21 lesser crimes.

22 Q. Uh-huh. And not only the crime reports, which are
23 the reports that the police prepare regarding their
24 investigation of witnesses and crime scene and that sort of
25 thing, but inmates also get copies of preliminary hearing
26 transcripts?

27 A. Upon request.

28 Q. Okay. And isn't it common, especially when a

1 person is facing a death penalty case, that they -- that they
2 get copies of those things, that they ask their attorney to make
3 them a copy?

4 A. It's my opinion that they do. I don't know too
5 many people that have been involved in that circumstance before.

6 Q. Okay. So you're aware that Mr. Morales had all
7 these transcripts and reports; right?

8 A. I saw the piles of them in his room, yes.]

9 Q. Okay.

10 A. He made mention of 'em.

11 Q. And you're aware that Mr. Ortega also had those
12 same sort of reports; right?

13 A. No, I'm not.

14 Q. Okay.

15 A. I had very little contact with Mr. Ortega.

16 Q. You had some contact with him; right?

17 A. As a trusty, yes.

18 Q. Okay. As a trusty, that means you had, what, sort
19 of free roam of the jail?

20 A. Personally, yes, I did.

21 Q. You had a little more freedom than the other
22 people, then?

23 A. Than most of the trusties, too.

24 Q. Okay. So you had occasion to talk to Mr. Ortega
25 while you've been out at the jail at least one time or another;
26 right?

27 A. Regarding the case, no.

28 Q. You never talked to him about the case; right?

1 A. The -- the only thing he ever told me about that is
2 that he was in jail for murder.

3 Q. Never said anything else to you, right?

4 A. No detail, no.

5 Q. And you never made any inquiry of him either;
6 right?

7 A. No, I didn't.

8 Q. Never even connected Mr. Ortega with Mr. Morales;
9 right?

10 A. I knew at that time that they were both in there
11 together and that they were related.

12 Q. Same charges; right?

13 A. Yes.

14 Q. And Mike had copies of all this stuff in his -- in
15 his cell; right?

16 A. Yes, I believe he did.

17 Q. And you saw some of that material, did you not?

18 A. I saw one page.

19 Q. One page?

20 A. Yes. In my own hands, I saw one page.

21 Q. Okay. You saw more than one page of material,
22 though; right?

23 A. Yes, of what he showed me from outside of his bars.

24 Q. Okay. You -- you looked at that -- some of those
25 reports, then; right?

26 A. Looked at 'em? I would not say I looked at 'em. I
27 briefed a couple sentences where I could not understand what he
28 was talking about.

1 Q. You briefed a couple of sentences?

2 A. Yes. He pointed out a couple of sentences in the
3 criminalist's report. I believe the autopsy as to questions in
4 legality of those statements and whether they would hold any
5 grounds in a courtroom.

6 Q. You mean the description of the injuries, the
7 number of wounds, the type of wounds, the areas, that sort of
8 thing?

9 A. No. Actually it was more for the semen report of
10 presence -- or the blood -- blood typing caused different
11 questions as to whether or not they could counteract another
12 witness's questions with defense counsel's own examination.

13 Q. So you saw portions of -- of the criminalist's
14 testimony at the preliminary hearing, then; right?

15 A. I'm not sure whether or not it was from the
16 preliminary hearing or whether it was his own report. I didn't
17 see a headline on it.

18 Q. Okay. And you saw other reports, then, in
19 conjunction with the case. You mentioned autopsy, and he showed
20 you some other stuff; right?

21 A. A few sentences.

22 Q. Just a few sentences?

23 A. Off of certain -- a few -- a couple pages.

24 Q. You didn't look at -- at some of the police reports
25 themselves?

26 A. No, I never did see a police report.

27 Q. You didn't look at some of the preliminary hearing
28 transcripts yourself?

1 A. Just one page in regards to statements as to
2 somebody seeing something in the house and somebody else saying
3 that it wasn't there.

4 Q. Uh-huh.

5 You knew Greg Winchell, didn't you?

6 A. I knew him? No. I saw him one time during his
7 stay --

8 MR. GARBER: Your Honor, I'm going to object to this as
9 being irrelevant.

10 MR. HOLMES: It's certainly not irrelevant.

11 THE COURT: Do you intend to make an offer of proof on
12 it?

13 MR. GARBER: Can we approach the bench?

14

15 (The following proceedings were held at the
16 bench, outside the hearing of the jury.)

17

18 MR. HOLMES: Greg Winchell --

19 MR. GARBER: Shhh.

20 MR. HOLMES: Greg Winchell is -- is the --

21 MR. GARBER: Shhh.

22 MR. HOLMES: -- is, I believe, a brother --

23 MR. GARBER: Not so loud.

24 MR. HOLMES: -- of --

25 MR. GARBER: They can hear everything he's saying.

26 THE COURT: I don't think they can hear it. Go ahead.

27 MR. HOLMES: -- of Terri.

28 THE COURT: Uh-huh.

1 MR. HOLMES: He committed a robbery and was in the jail
2 and apparently made some statements about wanting to -- to get
3 the responsables.

4 THE COURT: About what?

5 MR. HOLMES: About wanting to get the responsables --

6 THE COURT: Okay.

7 MR. HOLMES: -- who killed his sister.

8 THE COURT: Uh-huh.

9 MR. HOLMES: I think it's certainly permissible to
10 explore since Greg Winchell being Terri's brother would
11 certainly know about the case, have information about the case
12 and could be a source of information for this witness.

13 THE COURT: I think I agree. Any motive or interest he
14 would have to testify the way he's doing, I think, is relevant.

15 MR. GARBER: Well, it cuts both ways. What happened is
16 Greg Winchell's in prison, the victim's brother's in prison.

17 What he did was he told the judge he committed a
18 robbery so he could go to prison so he could kill the people
19 that killed his sister. It's inflammatory in that regard.

20 I mean it -- I think it's sort of 352 area, and I
21 really think it's pretty collateral.

22 In other words, I think that the whole purpose of
23 it is to bring out that the girl's brother is in prison and
24 therefore her character is a little less than ideal because --

25 MR. HOLMES: That isn't ~~is~~ relevant as to her character --

26 THE COURT: Hold on. I don't think it's necessary for
27 the jury to know that Winchell is in prison.

28 MR. GARBER: If they know he committed robbery, they'll

1 figure that --

2 THE COURT: I'm not sure that's necessary either. Just
3 the fact he was in jail and they had an opportunity to talk,
4 that's really all that's relevant about interest or motive of
5 this witness to testify the way he does, not specifically the
6 charges that Winchell was in jail then or where he is now.

7 MR. HOLMES: Then you would limit my questioning to
8 just -- to he was in jail and that -- and just what information
9 he may have obtained from Winchell?

10 THE COURT: Yes.

11 MR. HOLMES: Is that your ruling?

12 THE COURT: Yes.

13 MR. GARBER: Can we instruct the witness not to mention
14 that, then, the other area?

15 THE COURT: I don't see why he would if he's not asked.

16 MR. GARBER: Well, I think he'll blurt it out. The Court
17 can see he blurts a lot of things out.

18 THE COURT: He has blurted some things out.

19 Okay. Do you want to go and talk to him?

20 MR. HOLMES: I don't want to talk to him.

21 MR. GARBER: I think it would look bad.

22 THE COURT: I think it would, too. Make sure --

23 MR. HOLMES: It's not my witness. It's his witness.

24 THE COURT: Well, I'm not going to order you to go over
25 there. But if I were you, I'd want to see what he says. Okay.

26

27 (The following proceedings were held in open
28 court in the presence and hearing of the jury.)

1
2 THE COURT: Would the reporter please read back the
3 pending question.
4

5 (Record read.)
6

7 -- s --

1 THE COURT: All right. Go ahead, Mr. Holmes.

2 BY MR. HOLMES:

3 Q. You saw Greg Winchell out at the county jail,
4 right?

5 A. Yes, I did.

6 Q. Okay. He was in custody at the same time you were,
7 right?

8 A. Yes. After I was arrested he was arrested.

9 Q. Okay. And about what time was this?

10 A. About the time I got sentenced.

11 Q. Which time?

12 A. The final sentence to the county jail would have
13 been about October 1st.

14 Q. Of?

15 A. '80 -- or, no. Excuse me. November 4th of 1982.

16 Q. Okay. And you knew he was the brother of Terri
17 Winchell, right?

18 A. I had heard rumors to that effect.

19 Q. Okay. And you got information from him, did you
20 not, regarding some of the details about the case involving --

21 A. Information? I never talked to him.

22 Q. Are you saying you never talked to him?

23 A. No.

24 Q. You are saying that you were just aware he was
25 there, is that it?

26 A. Yes.

27 Q. Never got any details from him about the case?

28 A. No, I didn't. I was not even housed in the same

1 area he was at.

2 Q. Now, you have -- you are in -- or back in July of
3 '81 you were in protective custody, were you not?

4 A. Yes, I was.

5 Q. Okay. Protective custody is -- is what?

6 A. It's supposedly the utmost secure situation you can
7 have in a jail.

8 Q. Okay. Single man cell, right?

9 You are not --

10 A. Normally.

11 Q. -- sharing it with anybody else?

12 A. They -- San Joaquin County jail does have three
13 cells now full of people that are on protective custody for
14 various reasons. The reason I was on there, I was kept in a
15 single cell.

16 Q. Okay. And you were in protective custody in July
17 of '81 on those other charges, right?

18 A. Yes, sir.

19 Q. And how long were you in protective custody?

20 A. Until my transfer to the honor farm November 11th,
21 1982.

22 Q. Okay. So you were -- so you were in there about
23 three to four months, right?

24 A. Probably a bit longer than that.

25 Q. Okay. And the reason you were in protective
26 custody is because people thought you were a snitch, right?

27 A. To be more specific, they thought I was a police
28 officer.

1 Q. Okay.

2 A. Because of my demeanor and my personal appearance.

3 Q. Okay. They thought you were a plant, then, right?

4 A. No. Actually they thought I was a crooked cop as
5 it was put.

6 Q. Okay. So they thought you were there to elicit
7 information from people and then give it to the prosecution,
8 right?

9 A. There were some people that thought so. There were
10 others that thought just on the assumption that I was a cop at
11 one time or another and that I had volunteered out at juvenile
12 hall that they were under the general assumption that I was
13 there to elicit information.

14 Q. You say you were a police officer at one time?

15 A. No. That was the rumor going around the jail.

16 Q. Oh. Okay.

17 A. Because of the fact that I had volunteered out at
18 the juvenile hall.]

19 Q. Okay. So for different reasons people -- people
20 thought you were an informant, right?

21 A. Yes. There was one other reason behind that, too.
22 My major in college is administration of justice and there were
23 a couple people that were attending Delta College that were in
24 that jail, too, and knew my major.

25 Q. Okay. Some people -- people who are classified as
26 informants or snitches run some danger in county jails of -- of
27 being attacked or harmed, don't they?

28 A. It all depends on their physical well-being.

1 Q. Okay. Well, to insure your physical well-being
2 you -- you can get placed in protective custody, right?

3 A. At your request or at the request of the officers
4 in charge.

5 Q. Okay. And isn't it fair to say that informants and
6 snitches are not the most well liked people out at the county
7 jail among the regular inmate population?

8 A. Generally speaking, yes. Depending on the position
9 you are in.

10 Q. Okay. When you are in protective custody you don't
11 mingle as much, then, with the general population, right?

12 A. You don't mingle at all with the general
13 population.

14 Q. Okay. And your freedom's a little more restricted
15 when you are in protective custody?

16 A. When you are in jail your freedom's restricted
17 extremely so there is really not that much difference other than
18 you don't communicate with probably 125 other people at various
19 times.

20 Q. Okay. So there is -- there is a little bit more of
21 a restriction when you are in protective custody, then?

22 A. A small amount.

23 Q. Okay. And that's why when -- where you were
24 arrested on these new charges, though, you again went into
25 protective custody, right?

26 A. At the request of the jail commander.

27 Q. Okay. Because you had what they called a snitch
28 jacket?

1 A. That. And, again, on the choice of my career,
2 although nobody knew why I was in -- taking administration of
3 justice as a major. They all assumed that it was for law
4 enforcement, which it wasn't.

5 Q. So you got placed back in protective custody when
6 you picked up these five or six new felonies, right?

7 A. Upon my return to California, yes.

8 Q. Okay. And -- and because of the fact that you are
9 classified a snitch you have even been transferred out of the
10 county jail, have you not?

11 A. Due to this case.

12 Q. Okay. Certainly by offering information to the
13 prosecution you would be considered by people out of the jail as
14 a -- as a snitch, right?

15 A. The majority, yes.

16 Q. Okay. And snitch jacket is a label that's given to
17 people like that, right?

18 A. Yes.

19 Q. Okay. And sometimes it's rightfully a label that's
20 applied and sometimes it's wrongfully applied to individuals,
21 right?

22 A. Depending on the situation in which they are
23 testifying or giving information on.

24 Q. Okay. Certainly going to prison with a snitch
25 jacket would be worse than going to prison without one, would it
26 not?

27 A. Myself I don't believe so because when you are in
28 protective custody in prison it's a whole different

1 circumstance -- world than being out in the general population.

2 Q. It's still dangerous, though, to go to a prison
3 being known as a snitch as well as being in the county jail
4 known as a snitch, is it not?

5 A. Dangerous? No. Because you are not with the
6 general population.

7 Q. So there is not too much danger being in prison and
8 being known as a snitch as long as you are in protective
9 custody?

10 A. That's right. You are in segregated housing.

11 Q. Okay. Now, you certainly wanted to do everything
12 possible to avoid going to prison, though, either with or
13 without a snitch jacket, didn't you?

14 A. I was going to go with one anyway from the prior
15 time I was incarcerated, but, yes, I was interested in trying to
16 avoid going to prison.

17 Q. Okay. And you even wrote a letter to Mr. Garber
18 regarding your -- your information --

19 A. Yes, I did.

20 Q. -- did you not?

21 Okay. And in that information -- in that letter to
22 Mr. Garber --

23 MR. HOLMES: I wonder if we -- do you have the original?

24 MR. GARBER: It's not right here, but I will waive best
25 evidence.

26 BY MR. HOLMES:

27 Q. In your letter to Mr. Garber you indicated that you
28 could guarantee a murder conviction, did you not?

1 A. Yes, I did.

2 Q. And didn't you, in your letter, guarantee that you
3 could get a conviction on special circumstances?

4 A. Yes, I did.

5 Q. And in that letter did you not indicate that in
6 exchange for these sort of guarantees you wanted some things for
7 yourself?

8 A. Yes, I did.

9 Q. Okay. And one of those things was placement in
10 victim witness program, right?

11 A. Not so much victim witness. The protective program
12 they had -- that they used to have.

13 Q. Okay. Victim witness program is where they pay you
14 money and relocate you and help you find a job and -- and pay
15 expenses, that sort of thing, right?

16 A. By that name I didn't know it at that time, but now
17 I do, yes.

18 Q. Okay.

19 A. You just made me aware of it.

20 Q. So that was -- that was one of the things on your
21 list, that you wanted to be in the victim witness program,
22 right?

23 A. Essentially, yes.

24 Q. Okay. You also wanted to be released on your own
25 recognizance until the case went to trial, right?

26 A. Yes, sir.

27 Q. And you also wanted to have the charges dismissed
28 after you testified, right?

1 A. Yes, sir, I did.

2 Q. And didn't you also on your list indicate that you
3 wanted a place to stay with a telephone for three or four
4 months?

5 A. Yes. Until I can get back -- or receive a job
6 which I had already lined up and I still do --

7 Q. Um-hum.

8 A. -- so I can revert -- rent my own place or possibly
9 buy one and install my own telephone.

10 Q. And didn't you indicate, though, on there that you
11 wanted job placement and money?

12 A. Yes. For a second hand -- or second type job.

13 Q. Um-hum. And you also wanted a car or an
14 automobile, right?

15 A. Yes. For transportation --

16 Q. That was on your list, wasn't it?

17 A. Yes, sir.

18 Q. You also put on your list that you wanted a new
19 identification, didn't you?

20 A. Yes.

21 Q. And even went so far as to put down on your list
22 that you wanted an eye exam and glasses, right?

23 A. Yes. My glasses were broken in the county jail.
24 It's a matter I have to take up with the Sheriff's Department.

25 Q. Okay. And if that -- if that wasn't enough to
26 persuade the prosecution to give you a deal, you'd even
27 indicated that you had more information that you wanted to give
28 them, right?

03
1 A. Yes, I did.

2 Q. So you were willing to -- or you said you had
3 information about another death penalty case, right?

4 A. Yes.

5 Q. That would be a case involving James Maloney?

6 A. Yes, it would.

7 Q. Okay. And you told him that you could even give
8 them information about drug sales in North Stockton, right?

9 A. Many.

10 Q. You indicated that you could turn them on to some
11 of the bigger dealers in town?

12 A. Yes, I can.

13 Q. So you were pulling out all the stops and offering
14 just about any sort of information for them, right?

15 A. Yes. Very reliable information that I had come
16 across during my years in Stockton.

17 Q. Was this -- this list that you had, was that
18 written on a piece of paper?

19 A. I believe it was -- might have been written on two
20 pieces of paper.

21 Q. Okay. In your own handwriting or did you have
22 somebody write it?

23 A. It was in my own handwriting. I am quite literate.

24 Q. Did you sign it?

25 A. Yes, I believe I did. I probably dated it.

26 Q. What else did you indicate to the prosecution that
27 you'd be able to do for them?

28 A. My memory doesn't record anything right now as

1 offering other information for them.

2 Q. But you -- well, let me show you this, People's --
3 or Defendant's B.

4 Do you recognize that?

5 A. Yes, I do. That's my handwriting.

6 Q. Okay. Both pages?

7 A. Yes.

8 Q. I notice there is no signature on the second page.

9 Is your signature covered up by some other sheet of
10 paper on top of that?

11 A. I don't know. I wasn't -- I wasn't present when
12 these copies were made. I think I signed it only on the
13 envelope.

14 Q. Okay. So you don't recall whether you signed it on
15 the second page or not?

16 A. No. By looking at it I think it is probably --
17 that was written on the back page.

18 Q. Okay. And that's the letter you sent to Mr.
19 Garber.

20 In fact, it was addressed to Mr. Garber, right?

21 A. Yes, sir.

22 Q. So you even knew he was in charge of this case,
23 right?

24 A. Yes. As he was also in mine.

25 Q. And you have in fact been given a promise by the
26 prosecution, have you not?

27 A. For a recommendation.

28 Q. Okay. And that recommendation is a year in the

1 county jail, right?

2 A. Yes, sir.

3 Q. And that means with the -- your good time-work time
4 you get -- you actually only do eight months; is that correct?

5 A. Under the new California State law with the
6 rehabilitation program, six months.

7 Q. Okay. So you were arrested when?

8 A. November 3rd, 1982, in Kingman, Arizona.

9 Q. Okay. So you wouldn't have too much more time to
10 do, right?

11 A. It depends on whether the circumstances would be as
12 last time or this time in terms of waiving the good time.

13 Q. And you have also -- it's also been indicated to
14 you that this probation violation would also be dismissed,
15 right?

16 A. That they -- they would be talking about it. I
17 don't know if it would actually be dismissed. It would probably
18 go on record as still having a violation.

19 Q. But you wouldn't be sentenced to prison on it?

20 A. I doubt it very seriously.

21 Q. And you have also been indicated -- it had been
22 indicated to you that this county jail time that you have to
23 serve wouldn't have to be done in the San Joaquin County Jail,
24 right?

25 A. It was -- that's a matter of discretion.

26 Q. Well, you are not in the county jail now, right?

27 A. No, I am not.

28 Q. So you certainly wouldn't expect that you have to

1 go back and do the time there?

2 A. Expect it? No. I might request it, though.

3 Q. Okay. And all this, though, was -- was contingent
4 upon your testifying, right?

5 A. Yes, sir.

6 Q. In fact, your case has been put over until sometime
7 in April, right?

8 A. April 11th.

9 Q. To see how you do here, right?

10 A. For two reasons. One for the order to show cause
11 on the violation and one for a pretrial conference.

12 Q. Okay. And you waived time so you could have that
13 put over until April, right?

14 A. I waived time from the outset of the -- my charges.

15 Q. And have you also been promised that you would be
16 given some assistance as far as the victim witness program?

17 A. Financial assistance?

18 Q. Yeah.

19 A. No.

20 Q. Have you been promised that -- that you would be
21 relocated once you finished serving your time?

22 A. No.

23 Q. That was one of the things that you had asked
24 for, right?

25 A. Yes.

26 Q. Okay. And is that something you would probably ask
27 for after you -- after you testified if you are successful here?

28 A. It's a matter of opinion. I might, I might not.

1 MR. HOLMES: Nothing further.

2 THE COURT: All right. Mr. Garber, any redirect?

3 MR. GARBER: Nothing further.

4 THE COURT: May the Court excuse the witness?

5 MR. GARBER: No objection.

6 THE COURT: Mr. Holmes, any objection to my excusing the
7 witness?

8 MR. HOLMES: No.

9 THE COURT: All right. Thank you, Mr. Samuelson. You
10 are excused.

11 Ladies and gentlemen, we are going to send you out
12 to lunch now. The recess will be until 1:30, and during the
13 recess again remember the Court's admonition that you are not to
14 talk about the case or make up your mind. please return at 1:30
15 this afternoon.

16 Would Mrs. Moles please remain in the jury box?

17
18 (The following proceedings were held in open court
19 out of the presence of the jurors except Mrs. Moles:)

20

21 THE COURT: All right. All the other jurors have left
22 now.

23 Mrs. Moles, all I wanted to do right now is ask you
24 your permission to show these documents that you have shown to
25 me to counsel before I take up your matter at all.

26 Is that okay with you?

27 MRS. MOLES: That's fine.

28 THE COURT: Could you come back at 1:15 and I am going to

Exhibit 32

Declaration of David A. Senior, Esq.

DECLARATION OF DAVID A. SENIOR

I, David A. Senior, declare and state:

1. On December 16, 1992, I filed petitioner's first petition for writ of habeas corpus in this Court. On December 22, 1992, this Court requested an informal response. On February 19, 1993, I sought appointment by the Court to represent petitioner in his habeas corpus proceedings. On March 10, 1993, I was appointed by this Court as attorney of record for purposes of appropriate post-conviction proceedings in this Court. I filed three additional claims on April 19, 1993. The court filed the supplemental allegations as a second petition for writ of habeas corpus and assigned a new case number to it on April 21, 1993.

2. Respondent filed an informal response brief on April 26, 1993, responding to the December 1992 petition. I filed a reply on July 14, 1993. The Court did not request any informal briefing on the second petition. Instead, the court denied both petitions only fourteen days after I filed the Informal Reply, and while I was preparing a funds request to retain investigators and experts to submit supporting evidence for certain claims.

3. I made three funds requests in the United States District Court thereafter; all were denied on the day they were filed without a hearing or explanation provided. No investigative funds were ever authorized by the United States District Court after this Court denied the first petition on July 28, 1993.

4. On November 8, 1993, during a conversation with Supervising Deputy Attorney General Keith Borjon while leaving the United States District Court, Mr. Borjon stated that he had located Bruce Samuelson in Idaho and had interviewed him three months earlier. This was my first knowledge of the interview. I asked Mr. Borjon whether there was a transcript or recording of the interview, and he said there was. I asked for a copy, and Mr. Borjon advised that he would give me a copy if I made a written request. I did so on November 10, 1993, and he provided me with a copy of the interview on December 13, 1993.

5. The interview reveals that the Attorney General's office contacted Samuelson for the first time on July 30, 1993, which was two days after this Court's denial petitioner's petitions for writ of habeas corpus on July 28, 1993. Keith Borjon and Ed Leonard of the Attorney General's Office conducted a lengthy substantive interview on August 4, 1993.

5. On December 29, 2005, this Court advised me that I would be authorized to expend funds to investigate this case if I were to apply for and be appointed as Mr. Morales's lawyer for purposes of clemency. I requested appointment and was appointed on January 9, 2006. I received notification of my appointment the following day. I commenced an investigation and filed a Petition for Clemency on January 27, 2006, a Reply to the State's Opposition on February 7, 2006 and this petition on February 10, 2006.

6. A copy of the September 9, 1998 Declaration of Raquel (Cardenas) Rodriguez obtained by the Attorney General never was provided to me in any court proceedings. I saw it for the first time when it was submitted on February 6, 2006 as part of the Opposition to Mr. Morales's request for clemency.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on February 14, 2006 in Los Angeles County, California.



DAVID A. SENIOR